

**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 LTV**

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 LTV. 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 Release (“Settlement Agreement”) between The LTV Corporation (“LTV”), ArcelorMittal USA Inc. (“ISG”) 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. LTV Corporation is the parent company of LTV Steel Company, Inc. (“LTV Steel”), formerly known as Republic Steel Corporation (“Republic”), which is the surviving corporation following transactions by which Youngstown Sheet & Tube Company (“Youngstown”) and Jones & Laughlin Steel Corporation were acquired by merger. LTV Steel and 48 of its affiliates filed petitions under chapter 11 of the Bankruptcy Code in 2000, and these

and other proceedings, have been consolidated in the United States Bankruptcy Court for the Northern District of Ohio (the “Bankruptcy Court”) under Case No. 00-43866. On February 28, 2002, the Bankruptcy Court approved the sale of certain of the assets of LTV’s steel business to a company now known as ArcelorMittal USA Inc. (referred to as ISG). In connection with the sale, ISG became entitled to a share of the net proceeds of certain LTV insurance policies.

4. Home issued (a) two excess insurance policies insuring Republic for various policy periods between March 1, 1983 and June 29, 1984, and (b) six insurance policies insuring Youngstown for various policy periods between January 1, 1971 and January 1, 1977. Settlement Agreement, Attachment A. Upon Home’s placement in liquidation, LTV and ISG jointly filed two proofs of claim under the Republic policies and six proofs of claim under the Youngstown policies in the Home liquidation regarding claims under the policies, including but not limited to claims for coverage for environmental clean-up costs and damages. Settlement Agreement, eighth and ninth Whereas clauses. The Liquidator subsequently denied the Republic-related proofs of claim because the Home policies are high level excess policies that had never been triggered. Settlement Agreement, tenth Whereas clause. ISG has agreed to withdraw its participation in the Youngstown-related proofs of claim. Settlement Agreement, eleventh Whereas clause.

5. Since 2003, LTV has entered into settlements of environmental claims with other of its insurers. These settlements have been approved by the Bankruptcy Court, and they generally followed the template of a settlement from 2003. The structure included stipulations with certain government creditors who had asserted claims against the LTV debtors in the bankruptcy proceedings.

6. The Liquidator, LTV, and ISG have negotiated a Settlement Agreement reflecting a resolution of remaining matters under the proofs of claim and all matters under the policies. Settlement Agreement ¶ 2.B.<sup>1</sup> The Settlement Agreement is subject to approval by both this Court and the Bankruptcy Court. Settlement Agreement ¶ 3; *id.* ¶1(R)(definition of “Effective Date”).

7. Counsel to the LTV debtors has advised that nearly all matters are resolved in the LTV debtors’ chapter 11 cases, and the Bankruptcy Court has entered an order that contemplates that the bankruptcy cases would be dismissed and closed on or about July 31, 2012. LTV has advised the Liquidator that, to comply with the schedule set forth by the Bankruptcy Court, LTV needs to close upon this settlement, proceed to close on its sale of the allowance sought hereunder, obtain payment for the sale of the allowance and make a further distribution to the LTV Debtors' creditors, all by the end of July 2012. To facilitate this scheduling, on June 7, 2012, the LTV Debtors filed motions seeking approval of the Settlement Agreement. A hearing on these motions has been set June 29, 2012.

8. The Settlement Agreement provides that the Liquidator will recommend allowance of the proofs of claim in the aggregate amount of \$8,000,000 as a Class II priority claim of LTV under RSA 402-C:44. Settlement Agreement ¶ 2.A. Allowance of the recommended amount as a Class II claim will fully and finally resolve the proofs of claim and all claims LTV and ISG have under the policies. Settlement Agreement ¶ 2.B. 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.C.

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<sup>1</sup> The Settlement Agreement covers the eight policies and other known and unknown policies as defined in the definition of “Subject Insurance Policies.” Settlement Agreement ¶ 1(K). For clarity, it excludes policies issued to a number of specified companies, including Oil States Industries, Inc., a spin-off of LTV that contended in the LTV bankruptcy proceeding that it had rights under the policies, although it has not asserted any claims in the Home liquidation.

9. The Settlement Agreement is intended to resolve the proofs of claim and all claims under the policies. See Settlement Agreement Twelfth – Fourteenth Whereas Clauses, ¶ 4.A. To that end, the Settlement Agreement provides for mutual releases of all claims among the Liquidator, Home, LTV and ISG arising from or related to the proofs of claim or the policies. Id. ¶¶ 4A, 4C.<sup>2</sup> The Liquidator also agrees not to pursue subrogation, reimbursement, or contribution claims (a) against any person or entity that could then seek reimbursement from LTV or ISG, or (b) against any person or entity who could be liable to LTV for a claim for which coverage under the policies is released under the Settlement Agreement. Id. ¶ 6. LTV and ISG agree to use best efforts to obtain a similar non-contribution provision in settlements with other insurers for the benefit of Home and the Liquidator. Id.

10. LTV and ISG acknowledge in the Settlement Agreement that it is intended to extinguish obligations of the Liquidator and Home relating to the proofs of claim and the policies. Settlement Agreement ¶ 5. LTV agrees that (a) if another LTV insurer asserts a claim against the Liquidator, the Liquidator will take the position that the Settlement Agreement resolved all its payment obligations under the policies, and (b) if LTV or ISG obtains a judgment or settlement with one of its other insurers with regard to a claim released under the Settlement Agreement, and the insurer obtains a judgment against Home with regard to that claim, LTV and ISG agree to reduce any judgment or settlement they obtain against the insurer by the amount of the judgment against Home. Settlement Agreement ¶5.

11. Following the template of earlier LTV settlements, three Stipulations have been entered in connection with the Settlement Agreement to resolve issues with the governmental creditors and to avoid potential objections by other insurers and creditors. The stipulations will

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<sup>2</sup> The releases carve-out certain potential environmental claims preserved by Minnesota statutes. LTV represents that it is not aware of any such claims. Settlement Agreement ¶ 15.

be filed with the Bankruptcy Court. The first is among the United States, Pennsylvania, Ohio, Illinois, Indiana and Chicago (the “Governmental Creditors”), LTV, ISG, and the Liquidator. In it, the Governmental Creditors either covenant not to sue (in the case of the United States) or release (the other governments) the Liquidator and Home for all matters based on the Settlement Agreement, the proofs of claim, and the policies. Settlement Agreement, Attachment B. In the second, LTV and the Liquidator stipulate that the Settlement Agreement does not affect a non-settling insurer or reinsurer’s right to seek contribution or to raise any defenses available to it, nor does it affect any rights under the non-settling insurer or reinsurers’ policies. Settlement Agreement, Attachment D. In the third, Oil States Industries, Inc., which may assert rights under the policies, stipulates that it will not object to the Settlement Agreement, which specifically excludes Oil States’ claims. See Settlement Agreement ¶ 4(A).

12. The Liquidator is not aware of any potential third party claims under the Policies except for claims of the United States, Pennsylvania, Ohio, Illinois, Indiana, and Chicago.<sup>3</sup> Those potential claims with respect to Home are being resolved in connection with the Settlement Agreement as reflected in the first stipulation noted above. LTV represents and warrants that it is not aware of any claims or demands for coverage under the policies by any LTV entity it no longer controls (except potentially Oil States Industries), and that it is not aware of any claims relating to environmental liabilities of LTV by the State of Minnesota that might fall within the Minnesota statutory carve-out to the releases. Settlement Agreement ¶ 15.

13. The Liquidator is informed that the LTV debtors will take steps to terminate their corporate existences shortly after the LTV bankruptcy proceedings are closed. As a result, and unlike the situation in other policyholder settlements entered by the Liquidator, the Liquidator

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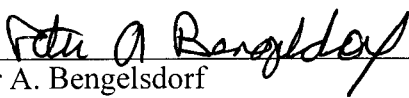
<sup>3</sup> One insurer has submitted a contribution claim in respect of the policies. Unlike third party claimants’ claims, a contribution claim is independent of the insured’s claims (although derived from the same underlying circumstances), and it will remain to be determined on its own merits in the liquidation proceeding.

was unable to obtain indemnities and it is unlikely that any third party claimants will be able in the future to obtain recovery from the policyholder. However, the only known potential third party claims, those of the Governmental Creditors, are being resolved through the stipulation entered in connection with the Settlement Agreement. (Oil States Industries claims, if any, are preserved.) In these circumstances, the Liquidator believes that it is appropriate to resolve all matters under the proofs of claim and the policies to the greatest extent possible.

14. 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 LTV and ISG. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$8,000,000 settlement amount as a Class II claim of LTV in accordance with RSA 402-C:45 and RSA 402-C:44.

15. The Liquidator submits 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 14 day of June, 2012.

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

STATE OF CALIFORNIA  
COUNTY OF VENTURA

On June 14, 2012 before me, CLAUDIA A. KING - 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 *Claudia A. King*  
Signature of Notary Public

