

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 THE CAPUCHIN PROVINCE**

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 Capuchin Province. 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 Capuchin Franciscan Province of the Sacred Stigmata of St Francis a/k/a Capuchin Fathers of the Province of the Stigmata of St Francis (“Capuchin Province”) 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 four insurance policies to the Capuchin Fathers of the Province of the Stigmata of St Francis under which Capuchin Franciscan Province of the Sacred Stigmata of St Francis is an insured for policy periods between August 1, 1973 and August 27, 1986.

Settlement Agreement, first Whereas clause. Upon Home's placement in liquidation, the Capuchin Province filed four proofs of claim in the Home liquidation regarding claims under the policies, including but not limited to claims for personal injury. Settlement Agreement, third Whereas clause.

4. The Liquidator and the Capuchin Province have negotiated a Settlement Agreement reflecting a resolution of the proofs of claim and all matters under the policies. 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 \$847,558 as a Class II priority claim of the Capuchin Province 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 the Capuchin Province has under the policies Id. ¶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. Id. ¶ 2(C).

6. The Settlement Agreement is intended to resolve the proofs of claim and all claims under the policies. See Settlement Agreement ¶¶ 2(B), 5. To that end, the Settlement Agreement provides for mutual releases of all claims among the Liquidator, Home and the Capuchin Province 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 the Capuchin Province that agree not to pursue such claims against Home. Id. ¶ 6.

7. The Liquidator is not aware of any third party claimants who have asserted claims under the policies. However, in resolving all matters relating to the proofs of claim and the

policies, the Settlement Agreement contemplates denial of any third party claimants' claims under the policies in the Home liquidation without prejudice to their claims against the Capuchin Province. Accordingly, the Capuchin Province acknowledges in the Settlement Agreement that it is intended to resolve all matters between the Capuchin Province and the Liquidator/Home relating to the proofs of claim and the policies, including asserted rights of third party claimants. Settlement Agreement ¶ 5. The Capuchin Province agrees to address, at its sole cost, the claims of claimants asserting claims against the Capuchin Province as if the Capuchin Province had no insurance coverage from Home under the policies. Id. The Capuchin Province agrees to indemnify the Liquidator and Home against claims arising from the policies up to the amounts ultimately distributed or distributable to the Capuchin Province. Id.

8. The denial of any third party claimants' proofs of claim without prejudice to their claims against the Capuchin Province will not harm the third party claimants, who will continue to have their claims against the Capuchin Province. As noted above, the Capuchin Province 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 the Capuchin Province 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, the Capuchin Province will continue to be 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 claims for personal injury 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 the Capuchin Province. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$847,558 settlement amount as a Class II claim of the Capuchin Province in accordance with RSA 402-C:45 and RSA 402-C:44.

10. 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 10 day of April, 2013.

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

STATE OF CALIFORNIA
COUNTY OF VENTURA

On 04-10, 2013 before me, Tina 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 Tina Le
Signature of Notary Public