

**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 UNIROYAL**

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 Uniroyal. 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 Uniroyal Holding, Inc. (“Uniroyal”), the successor to certain assets and liabilities of Uniroyal Inc., 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 sixteen insurance policies to United States Rubber Company and Uniroyal Inc. under which Uniroyal asserts coverage for various policy periods between February 1, 1965 and April 8, 1985. Settlement Agreement, first Whereas clause. Upon Home’s

placement in liquidation, Uniroyal filed nineteen proofs of claim in the Home liquidation including claims for coverage for environmental clean-up costs and damages. Settlement Agreement, third Whereas clause.

4. The Liquidator and Uniroyal 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 with respect to the settled claims in the aggregate amount of \$1,000,000 as a Class II priority claim of Uniroyal 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 Uniroyal 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, except that the initial distribution amount (i.e., \$90,948.75 at 15%) on the \$606,325 part of the recommended amount concerning an unexcused late filed claim will be withheld pursuant to RSA 402-C:37, III. *Id.* ¶ 2(C).

6. The Settlement Agreement is intended to resolve the proofs of claim and all claims that Uniroyal has under the policies. See Settlement Agreement ¶ 2(B). To that end, the Settlement Agreement provides for mutual releases of all claims among the Liquidator, Home and Uniroyal arising from or related to the proofs of claim or the policies. *Id.* ¶¶ 3, 4. The Liquidator also releases claims respecting the underlying matters covered by the proofs of claim against other insurers of Uniroyal that agree to release 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 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 Uniroyal.

Accordingly, Uniroyal acknowledges in the Settlement Agreement that it is intended to resolve all matters between Uniroyal and the Liquidator/Home relating to the proofs of claim and the policies, including asserted rights of third party claimants. See Settlement Agreement, fourth Whereas clause, ¶ 5. Uniroyal agrees to address, at its sole cost, the claims of claimants asserting claims against Uniroyal as if Uniroyal had no insurance coverage from Home under the policies. Settlement Agreement ¶ 5. Uniroyal agrees to indemnify the Liquidator and Home against claims arising from the policies up to the amounts ultimately distributed or distributable to Uniroyal. Id. Based on notices of claims filed in the liquidation, the Liquidator and Home agreed to except from these provisions the claims by six specified policyholder or insurer claimants (who are not third party claimants). Id.

8. The denial of any third party claimants' proofs of claim without prejudice to their claims against Uniroyal will not harm the third party claimants, who will continue to have their claims against Uniroyal. As noted above, Uniroyal 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 Uniroyal 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, Uniroyal 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 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 Uniroyal. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$1,000,000 settlement amount as a Class II claim of Uniroyal in accordance with RSA 402-C:45 and RSA 402-C:44, of which \$606,325 should be allowed as an unexcused late filed claim pursuant to RSA 402-C:37, III.

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 21 day of May, 2014.

Peter A. Bengelsdorf

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

STATE OF CALIFORNIA  
COUNTY OF VENTURA

On 05-21, 2014 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

