

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**

**MOTION FOR APPROVAL OF REINSURANCE
COMMUTATION AGREEMENT WITH ARROWOOD**

Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, as Liquidator (“Liquidator”) of The Home Insurance Company (“Home”), hereby moves that the Court enter an order in the form submitted herewith approving a Reinsurance Commutation Agreement, Settlement and Release (the “Commutation Agreement”) between the Liquidator and Arrowood Indemnity Company, formerly known as Royal Indemnity Company, on behalf of itself and as successor in interest to the insurance companies that once traded in the United States as part of the Royal Insurance or Royal & SunAlliance group including Royal Globe Insurance Company, Arrowood Surplus Lines Insurance Company, formerly known as Royal Surplus Lines Insurance Company and Security Insurance Company of Hartford (collectively “Arrowood”). As reasons for this motion, the Liquidator respectfully states:

1. This motion seeks approval of the Commutation Agreement between the Liquidator and Arrowood. A redacted copy of the Commutation Agreement (with economic terms removed) is attached as Exhibit 1. A complete copy of the Commutation Agreement is attached to the Confidential Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Approval of Reinsurance Commutation Agreement with Arrowood (“Bengelsdorf Confidential Affidavit”) submitted herewith under seal.

2. As a part of its business, Home entered into reinsurance agreements with numerous reinsurers under which Home ceded and the reinsurers assumed a portion of Home's obligations. Collection of reinsurance is the principal asset marshalling task of the Home liquidation. Bengelsdorf Confidential Affidavit ¶ 3.

3. Home entered into various reinsurance agreements with Arrowood. Arrowood provided reinsurance coverage to Home under various treaties and facultative agreements covering property, casualty and marine risks for periods from 1968 to 1994. Arrowood also reinsured Home through Arrowood's participation as a member of the Excess Casualty Reinsurance Association ("ECRA") pool at various times from 1961 to 1982. (These are the "Home ceded reinsurance agreements.") Home provided Arrowood with reinsurance coverage under various casualty treaties for periods from 1971 to 1978, as well as under facultative agreements through Home's participation as a member of the ECRA pool from 1964 to 1982. (These are the "Arrowood ceded reinsurance agreements.") The Liquidator sought to recover from Arrowood the value of Home's ceded reinsurance. However, the value of Home's ceded reinsurance is less than the value of Arrowood's ceded reinsurance, so Arrowood is a net creditor of Home. Bengelsdorf Confidential Aff. ¶ 4.

4. The Commutation Agreement provides for the commutation of all the business ceded from Home to Arrowood and so much of the business ceded by Arrowood to Home as offsets Home's ceded business. It provides for the full and final settlement of all past, present and future obligations and liabilities under the Home ceded reinsurance agreements by setoff, and leaves the excess amount of Arrowood ceded business to be determined as a Class V claim in the event that any distribution is to be made on Class V priority claims. Commutation Agreement, first through sixth Whereas clauses, ¶ 2. The Liquidator does not expect to make

any distribution on Class V claims. Arrowood's claims against Home plainly exceed Home's claims against Arrowood. Bengelsdorf Confidential Aff. ¶¶ 5, 8.

5. The Commutation Agreement provides that no monetary consideration will be paid; rather, the parties agree that the balances due from Home under the Arrowood ceded reinsurance agreements equal or exceed the balances due from Arrowood under the Home ceded reinsurance agreements. Arrowood's claim in excess of the balances agreed to be due from Home is assigned to Class V priority to be determined only if the Liquidator subsequently declares that Home will make a distribution on Class V claims. Commutation Agreement ¶ 2. The other provisions of the Commutation Agreement, including mutual releases (Commutation Agreement ¶¶ 4-5), are set forth in the Commutation Agreement. Bengelsdorf Confidential Affidavit ¶10.

6. The Bengelsdorf Confidential Affidavit summarizes the reasons that support the determination to enter the Commutation Agreement. Bengelsdorf Confidential Affidavit ¶¶ 6-10. For the reasons set forth in the Bengelsdorf Confidential Affidavit, the Liquidator submits that the Commutation Agreement is fair and reasonable and in the best interests of the policyholders and other creditors of Home. The Commutation Agreement resolves present and future reinsurance obligations and avoids the necessity of billing reinsurance to Arrowood and handling reinsurance claims from Arrowood. See Bengelsdorf Confidential Aff. ¶ 11.

WHEREFORE, the Liquidator respectfully requests that this Court:

- A. Grant this Motion for Approval of Reinsurance Commutation Agreement with Arrowood;
- B. Enter an Order in the form submitted herewith approving the Commutation Agreement; and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

ROGER A. SEVIGNY, INSURANCE
COMMISSIONER OF THE STATE OF
NEW HAMPSHIRE, AS LIQUIDATOR
OF THE HOME INSURANCE
COMPANY,

By his attorneys,

JOSEPH A. FOSTER
ATTORNEY GENERAL

J. Christopher Marshall
NH Bar ID No. 1619
Civil Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, NH 03301-6397
(603) 271-3650



J. David Leslie
NH Bar ID No. 16859
Eric A. Smith
NH Bar ID No. 16952
Rackemann, Sawyer & Brewster P.C.
160 Federal Street
Boston, MA 02110
(617) 542-2300

April 2, 2015

Certificate of Service

I hereby certify that a copy of the foregoing Motion for Approval of Reinsurance Commutation Agreement with Arrowood and the Proposed Order Approving Reinsurance Commutation Agreement with Arrowood were sent, this 2nd day of April, 2015, by first class mail, postage prepaid to all persons on the attached service list. The Confidential Affidavit being filed under seal was not so served.



Eric A. Smith
NH Bar ID No. 16952

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of
The Home Insurance Company
Docket No. 03-E-0106

SERVICE LIST

Lisa Snow Wade, Esq.
Orr & Reno
One Eagle Square
P.O. Box 3550
Concord, New Hampshire 03302-3550

Gary S. Lee, Esq.
James J. DeCristofaro, Esq.
Kathleen E. Schaaf, Esq.
Morrison & Foerster
1290 Avenue of the Americas
New York, New York 10104-0050

Robert A. Stein, Esq.
The Stein Law Firm, PLLC
One Barberry Lane
P.O. Box 2159
Concord, New Hampshire 03302-2159

David M. Spector, Esq.
Dennis G. LaGory, Esq.
Schiff Hardin LLP
6600 Sears Tower
Chicago, Illinois 60606

Michael Cohen, Esq.
Cohen & Buckley, LLP
1301 York Road
Baltimore, Maryland 21093

David H. Simmons, Esq.
Mary Ann Etzler, Esq.
Daniel J. O'Malley, Esq.
deBeaubien, Knight, Simmons,
Mantzaris & Neal, LLP
332 North Magnolia Avenue
P.O. Box 87
Orlando, Florida 32801

Martin P. Honigberg, Esq.
Sulloway & Hollis, P.L.L.C.
9 Capitol Street
P.O. Box 1256
Concord, New Hampshire 03302-1256

Richard Mancino, Esq.
Willkie Farr & Gallagher, LLP
787 Seventh Avenue
New York, New York 10019

Joseph G. Davis, Esq.
Willkie Farr & Gallagher, LLP
1875 K Street, N.W.
Washington, DC 20006

Albert P. Bedecarre, Esq.
Quinn Emanuel Urguhart Oliver & Hedges, LLP
50 California Street, 22nd Floor
San Francisco, California 94111

Jeffrey W. Moss, Esq.
Morgan Lewis & Bockius, LLP
225 Franklin Street
16th Floor
Boston, Massachusetts 02110

Gerald J. Petros, Esq.
Hinckley, Allen & Snyder LLP
50 Kennedy Plaza, Suite 1500
Providence, Rhode Island 02903

Christopher H.M. Carter, Esq.
Hinckley, Allen & Snyder LLP
11 South Main Street, Suite 400
Concord, New Hampshire 03301

Robert M. Horkovich, Esq.
Robert Y. Chung, Esq.
Anderson Kill & Olick, P.C.
1251 Avenue of the Americas
New York, New York 10020

Andrew B. Livernois, Esq.
Ransmeier & Spellman, P.C.
One Capitol Street
P.O. Box 600
Concord, New Hampshire 03302-0600

John A. Hubbard
615 7th Avenue South
Great Falls, Montana 59405

Paul W. Kalish, Esq.
Ellen M. Farrell, Esq.
Timothy E. Curley, Esq.
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004-2595

Harry L. Bowles
306 Big Hollow Lane
Houston, Texas 77042

Gregory T. LoCasale, Esq.
White and Williams, LLP
One Liberty Place, Suite 1800
Philadelphia, Pennsylvania 19103-7395

Kyle A. Forsyth, Esq.
Commercial Litigation Branch
Civil Division
United States Department of Justice
P.O. Box 875
Washington, D.C. 20044-0875

W. Daniel Deane, Esq.
Nixon Peabody LLP
900 Elm Street, 14th Floor
Manchester, New Hampshire 03861

Joseph C. Tanski, Esq.
John S. Stadler, Esq.
Nixon Peabody LLP
100 Summer Street
Boston, Massachusetts 02110

Steven J. Lauwers, Esq.
Michael S. Lewis
Rath Young Pignatelli
One Capital Plaza
Concord, New Hampshire 03302-1500

**REINSURANCE COMMUTATION
AGREEMENT, SETTLEMENT AND RELEASE**

THIS REINSURANCE COMMUTATION AGREEMENT, SETTLEMENT AND RELEASE (the "Agreement") is made and entered into by and between Roger A. Sevigny, the New Hampshire Insurance Commissioner, solely in his capacity as Liquidator (the "Liquidator") of The Home Insurance Company ("Home") and Arrowood Indemnity Company, formerly known as Royal Indemnity Company, on behalf of itself and as successor in interest to the insurance companies that once traded in the United States as part of the Royal Insurance or Royal & SunAlliance group including Royal Globe Insurance Company, Arrowood Surplus Lines Insurance Company, formerly known as Royal Surplus Lines Insurance Company and Security Insurance Company of Hartford (collectively, "Arrowood"). The Liquidator, Home and Arrowood may be individually referred to herein as a "Party" or collectively herein as the "Parties."

WITNESSETH:

WHEREAS, Home and Arrowood entered into certain reinsurance agreements (the "Home Ceded Reinsurance Agreements"), pursuant to which Home ceded to Arrowood, and Arrowood accepted from Home, a certain share of Home's liabilities as more fully reflected in the percentages of participation and periods for each of the respective Home Ceded Reinsurance Agreements;

WHEREAS, for the avoidance of doubt, included within the definition of Home Ceded Reinsurance Agreements are those reinsurance arrangements pursuant to which Home ceded to Arrowood through the Excess Casualty Reinsurance Association ("ECRA");

WHEREAS, the Parties acknowledge and agree that the value of the Home Ceded Reinsurance Agreements is [REDACTED];

WHEREAS, Arrowood and Home entered into certain reinsurance agreements (the "Arrowood Ceded Reinsurance Agreements"), pursuant to which Arrowood ceded to Home, and Home accepted from Arrowood, a certain share of Arrowood's liabilities as

more fully reflected in the percentages of participation and periods for each of the respective Arrowood Ceded Reinsurance Agreements;

WHEREAS, for the avoidance of doubt, included within the definition of Arrowood Ceded Reinsurance Agreements are those reinsurance arrangements pursuant to which Arrowood ceded to Home through ECRA;

WHEREAS, the Parties agree that the value of the Arrowood Ceded Reinsurance Agreements exceeds the value of the Home Ceded Reinsurance Agreements, with the intent being that amounts due and owing to Arrowood beyond the offsetting value of the Home Ceded Reinsurance Agreements shall remain potentially available for recovery by Arrowood should the Liquidator subsequently declare a dividend in the Home estate for Class V (Residual Classification) Creditors;

WHEREAS, the Home Ceded Reinsurance Agreements and the Arrowood Ceded Reinsurance Agreements shall be defined herein as the "Reinsurance Agreements";

WHEREAS, Home was placed into liquidation by the June 13, 2003 Order of the Superior Court of the State of New Hampshire, Merrimack County (the "Liquidation Court"), pursuant to which the Liquidator was appointed as the Liquidator of Home;

WHEREAS, Arrowood filed a Proof of Claim in the Home estate on behalf of Royal Indemnity and Royal Globe denominated POC No. PROD 428041 (the "POC");

WHEREAS, the Parties agree that it is mutually in their best interests to fully and finally settle and commute their respective past, present and future rights, obligations and liabilities (whether known or unknown) under the Reinsurance Agreements with immediate effect in order to resolve any and all pending outstanding issues between the Parties and eliminate the uncertainty of contingent liabilities for presently unresolved and/or unasserted claims with respect to the Reinsurance Agreements and, in consequence thereof, to enter into mutual releases relating thereto, all in accordance with the terms and conditions hereinafter contained;

NOW THEREFORE, intending to be legally bound, in consideration of the promises, covenants, representations, warranties, payments, agreements and other good and valuable consideration recited and set forth herein, the sufficiency of which is mutually acknowledged, the Parties agree as follows:

1. This Agreement shall become effective immediately upon execution by both the Liquidator and Arrowood (the "Effective Date"), with the understanding that Arrowood has received prior approval to execute this Agreement from the Delaware Department of Insurance.

2. No monetary consideration will be provided in exchange for this Agreement; rather, the Parties agree that the balances due from Home under the Arrowood Ceded Reinsurance Agreements equal or exceed the balances due from Arrowood under the Home Ceded Reinsurance Agreements, which is agreed to be [REDACTED] and that after effecting offset of these balances, Arrowood shall be granted a Class V (Residual Classification) Determination in the Home estate in an amount to be determined should the Liquidator subsequently declare that Home will make distribution to Class V claimants.

3. This Agreement shall fully and finally resolve the POC and Arrowood shall waive and forever be barred from bringing or asserting any subsequent claim in the Home estate with respect to the POC.

4. Subject to the terms of this Agreement, the Liquidator on behalf of Home, its officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, predecessors, successors and assigns, irrevocably and unconditionally releases and discharges Arrowood, its officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, representatives, liquidators, receivers and rehabilitators and their respective predecessors, successors and assigns to the extent permitted by applicable law from any and all liabilities, adjustments, obligations, offsets, actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, premiums, returned premiums, unearned premiums, losses, salvage, commissions, variances, expenses, acts, omissions, executions, bonds, bills, covenants, contracts, controversies, agreements, promises,

damages, judgments, claims and demands whatsoever, all whether known or unknown to one of both parties, suspected or unsuspected, fixed or contingent in law or in equity, which the Liquidator or Home ever had, now has, or hereafter may have against Arrowood by reason of any matter whatsoever arising out of or in connection with or in relation to the Reinsurance Agreements. Additionally, the Liquidator fully understands and expressly waives Home's rights and benefits with respect to the Reinsurance Agreements under any provision of law which substantially provides that:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

5. Subject to the terms and conditions of this Agreement and in consideration of the release of Arrowood pursuant to Paragraph 4 above, Arrowood on behalf of itself, its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, pool members and their successors and assigns (including any liquidator or statutory successor), irrevocably and unconditionally releases and discharges the Liquidator and Home and their respective officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors and assigns, from any and all actions, causes of action, liabilities, adjustments, obligations, offsets, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, premiums, losses, salvage, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims and/or demands arising from or related to the Reinsurance Agreements, in law, admiralty or equity, which Peerless ever had, now has or hereafter may have against Liquidator and/or Home or its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors and assigns, all whether known or unknown, suspected or unsuspected, fixed or contingent, in law, admiralty or equity, arising from or related to the Reinsurance Agreements. Additionally, Arrowood fully understands and expressly waives its rights and benefits with respect to the Reinsurance Agreements under any provision of law which substantially provides that:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing

the release, which if known by him must have materially affected his settlement with the debtor.

6. This instrument embodies the final, complete and entire agreement between the Parties and is the product of their own independent legal advice and analysis. No other representations, understandings or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth or referred to herein.

7. If any provision of this Agreement is invalid, unenforceable or illegal under the law of any jurisdiction, such provision shall be deemed severable from the balance of this Agreement, and the validity and enforceability of the remaining provisions of this Agreement, and the validity and enforceability of such provision in any other jurisdiction shall not be affected thereby. In the event of such invalidity, enforceability or illegality, the Parties shall negotiate in good faith to amend this Agreement through the insertion of additional provisions which are valid, enforceable and legal and which reflect, to the extent possible, the economic and other purposes contained in the invalid, unenforceable or illegal provision.

8. The Parties hereby agree that this Agreement shall take precedence over and supersede the Reinsurance Agreements and that notwithstanding anything to the contrary contained therein, this Agreement shall operate as a full and final settlement, commutation and release of the respective rights, obligations and liabilities of the Parties under the Reinsurance Agreements. In addition, the Parties and their respective successors and assigns absolutely and unconditionally covenant and agree that upon consummation of the transactions contemplated by this Agreement, neither will demand, claim or file suit or initiate arbitration proceedings against the other with respect to any matters relating to or arising out of the Reinsurance Agreements.

9. The failure of any party hereto to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of this Agreement, or any part hereof, or the rights of such party to thereafter enforce each and every such provision.

10. The Parties agree and acknowledge that this Agreement is being entered into solely as a commercial accommodation, without regard to the respective positions of the Parties regarding their rights and obligations under and in terms of the Reinsurance Agreements. As such, the Parties agree that this Agreement shall never at any time for any purpose be considered as an admission of liability or responsibility on the part of any party hereto regarding any aspect of the Reinsurance Agreements, other than with respect to the terms and conditions herein contained.

11. (A) Arrowood represents that it is duly authorized to enter into this Agreement and the transactions contemplated herein, and that the representative signing this Agreement is fully authorized to execute this Agreement on its behalf; that all requisite and necessary approvals have been obtained to consummate the transactions contemplated by this Agreement; that no other agreement, undertaking, contract or matter is known to exist that might render this Agreement void, voidable or unenforceable; and that it has read this Agreement, that it understands its contents and that it is being executed freely and voluntarily with an intent for it to collectively be bound by its terms; and (B) the Liquidator represents and warrants that he is duly authorized to enter into this Agreement and the transactions contemplated herein on behalf of Home; that no other agreement, undertaking, contract or matter is known to exist that might render this Agreement void, voidable or unenforceable; that he has read this Agreement, understands its contents, and that the person signing this Agreement on behalf of the Liquidator is fully authorized to execute this Agreement freely and voluntarily on his behalf with an intent for Home and the Liquidator to be bound by its terms.

12. This Agreement shall inure to the benefit of and bind the Parties and their respective predecessors, parents, affiliates, subsidiaries, successors and assigns (including their rehabilitators, liquidators or other statutory successors) to the maximum extent permitted by applicable law.

13. No supplement, amendment, variation, modification, waiver or termination of this Agreement shall be effective unless in writing and signed by the Parties.

14. It is hereby agreed that the Parties, including but not limited to their attorneys, agents, representatives and affiliates, will not disclose the terms of this Agreement to anyone other than is necessary to effectuate the terms of this Agreement; except that the Parties may disclose the terms of this Agreement to and through their attorneys, accountants, reinsurers, retrocessionaires and auditors for a legitimate business purpose where a specific need for such disclosure arises in the judgment of such attorneys, accountants, reinsurer and auditors, or in response to lawful process. Notwithstanding the foregoing, nothing in this provision shall restrict the ability of the Parties to disclose the terms of this Agreement to regulatory entities or in connection with reports and statements that they may be required from time to time to file or submit to government agencies, or in support of a motion for approval by any court.

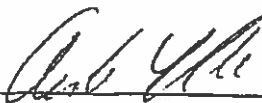
15. The Parties represent and agree that the consideration for this Agreement, provided in exchange for the Parties' mutual promises made herein, is fair and reasonable. The Parties further agree to provide each other with an appropriate affidavit to this effect if such an affidavit becomes necessary to uphold or enforce the legitimacy of this Agreement.

16. This Agreement may be executed in multiple counterparts, each of which, when so delivered, shall be an original, but such counterparts shall together constitute one and the same instrument. The Parties agree that a signature sent by facsimile or electronic mail to the other Party shall have the same force and effect as an original signature. This Agreement shall be of no force and effect until executed by the Parties.

17. This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire without regard to the conflicts of law provisions thereof. The Parties agree that the Liquidation Court shall be the exclusive venue for any dispute between the Parties arising out of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective authorized officers.

For and on behalf of Arrowood as defined herein,


By: 

Date: Dec 17, 2014

Name: André Lefebvre

Title: Senior Vice President and
Financial Risk Officer

Roger A. Sevigny, the New Hampshire Commissioner of Insurance, solely in his capacity as Liquidator of The Home Insurance Company

By: 

Date: 12-18-14

Name: Peter A. Bengelsdorf

Title: Special Deputy Liquidator of The Home Insurance Company in Liquidation