

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Docket No. 217-2003-EQ-00106

**In the Matter of the Liquidation of
The Home Insurance Company**

**LIQUIDATOR'S MOTION FOR APPROVAL OF
SETTLEMENT AGREEMENT WITH DIOCESE OF GALLUP**

Roger A. Seigny, Insurance Commissioner for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), moves that the Court enter an order in the form submitted herewith approving a Settlement Agreement and Mutual Release ("Settlement Agreement") between the Roman Catholic Church of the Diocese of Gallup (the "Diocese") and the Liquidator. As reasons therefor, the Liquidator states as follows:

1. The Settlement Agreement was negotiated under the supervision of the Special Deputy Liquidator. Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Motion for Approval of Settlement Agreement with Diocese of Gallup ("Bengelsdorf Aff.") ¶ 2. A copy of the Settlement Agreement is attached hereto as Exhibit A. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 1. Bengelsdorf Aff. ¶ 6.

2. Home allegedly issued four insurance policies to the Diocese and/or the Bishop of the Diocese of Gallup for various policy periods between October 1, 1965 and October 1, 1977, which, together with all other insurance policies Home may have issued to the Diocese or under which the Diocese may be insured are referred to collectively as the "Policies". Settlement Agreement, second Whereas clause. Upon Home's placement in liquidation, the Diocese filed a proof of claim with respect to insurance coverage for alleged bodily injury in the Home liquidation, which, together with any other proofs of claim hereinbefore or hereinafter filed by

the Diocese in the Home liquidation are referred to collectively as the “Proofs of Claim”. Id., sixth Whereas clause. Bengelsdorf Aff. ¶ 3.

3. The Diocese also submitted claims under the Policies to the New Mexico Property and Casualty Insurance Guaranty Association (“NMPCIGA”), and the Diocese and the NMPCIGA are entering into a settlement regarding those claims. Settlement Agreement, fourth Whereas clause. The NMPCIGA has advised the Diocese and the Liquidator that it will seek recovery from the Home estate for its settlement amount. See id., fifth Whereas clause. Bengelsdorf Aff. ¶ 4.

4. The Diocese is the subject of a bankruptcy proceeding pending before the United States Bankruptcy Court for the District of New Mexico (“Bankruptcy Court”), In re Roman Catholic Church of the Diocese of Gallup, No. 13-13676-tll (Bankr. D.N.M.). Settlement Agreement, seventh Whereas clause. This Settlement Agreement and the Diocese’s settlement agreement with the NMPCIGA are subject to approval by the Bankruptcy Court. Because of the pending bankruptcy proceeding for the Diocese and the anticipated plan of reorganization for the Diocese, the Settlement Agreement contains certain provisions that vary from other settlement agreements between the Liquidator and policyholder claimants. Bengelsdorf Aff. ¶ 5.

5. The Liquidator and the Diocese have negotiated the Settlement Agreement reflecting a resolution of the Proofs of Claim and all matters between them under the Policies. Settlement Agreement, eighth Whereas clause. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 1(A). It is also subject to approval by the Bankruptcy Court. Id. ¶ 1(B). It is also conditioned upon entry by the Bankruptcy Court of an order approving a buyback of the Policies under the Bankruptcy Code (although this condition may be waived by the Liquidator), and the Bankruptcy Court’s approval of a plan of reorganization

(“Plan”) for the Diocese that includes channeling injunctions to protect Home and the Liquidator by channeling all claims relating to the Policies to a trust to be established as part of the Plan. *Id.* ¶¶ 1(C) and (D). The Diocese has filed such a Plan, including channeling injunctions and the creation of a trust, with the Bankruptcy Court. The Settlement Agreement will become effective when all of these conditions are satisfied. Settlement Agreement ¶ 1. Bengelsdorf Aff. ¶¶ 6-7.

6. The Settlement Agreement provides that the Liquidator will recommend allowance of the Proofs of Claim in the amount of \$3,750,000 (the “Recommended Amount”) as a Class II priority claim under RSA 402-C:44. Settlement Agreement ¶ 2(A). Bengelsdorf Aff. ¶ 8.

7. The Settlement Agreement also provides that the \$1,850,000 amount of the NMPCIGA’s settlement with the Diocese will be allowed as a Class II claim of the NMPCIGA in the Home estate once the NMPCIGA has paid that amount to the Diocese or the Diocese’s assignee and submitted proof of the payment to the Liquidator. Settlement Agreement ¶ 2(B). Bengelsdorf Aff. ¶ 9.

8. Allowance of the Recommended Amount as a Class II claim will fully and finally resolve the Proofs of Claim and all claims the Diocese has under the Policies. Settlement Agreement ¶ 2(C). 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(D). Bengelsdorf Aff. ¶ 10.

9. The Settlement Agreement is intended to resolve the Proofs of Claim and all claims that the Diocese has under the Policies. See Settlement Agreement ¶ 2(C). To that end, the Settlement Agreement provides for a release by the Diocese of all claims against Home and

the Liquidator. The release will take the form of the release of all settling insurers set forth in the Plan for the Diocese pending before the Bankruptcy Court. Id. ¶ 3. Bengelsdorf Aff. ¶ 11.

10. In resolving all of the Diocese's claims relating to the Proofs of Claim and the Policies, the Settlement Agreement is intended to resolve all matters arising out of or relating to any rights the Diocese ever had, now has, or hereafter may have in the Policies and the Proofs of Claim, including any asserted rights of third-party claimants against the Diocese under the Policies. See Settlement Agreement ¶ 4. The Diocese agrees to address, at its sole cost, any such claims of third-party claimants against the Diocese as if there had been no liquidation proceeding for Home and as if the Diocese had no insurance coverage from Home by virtue of the Policies. Id. Such claims by third parties against the Diocese will be determined in accordance with the Plan, the Bankruptcy Court's order confirming the Plan, and the Bankruptcy Code. Id. Bengelsdorf Aff. ¶ 12.

11. The Liquidator is not aware of any third party claimants asserting claims under the Policies. However, the denial of any third party claimants' claims without prejudice to their claims against the Diocese will not harm third party claimants, who will continue to have their claims against the Diocese subject to the provisions of the Plan and the confirmation order (which will channel such third party claims to the trust) and the Bankruptcy Code. As noted above, the Diocese has agreed to address these claims as if it had no insurance coverage from Home under the Policies. Settlement Agreement ¶ 4. Third party claimants' proofs of claim against the insolvent Home, if not denied with the agreement, would release the Diocese from those claims up to the limits of the policies but only entitle the third party claimants (assuming their claims were allowed) to the initial interim distributions and any later distribution at a presently undetermined distribution percentage from Home at the future date when distribution is

made. See RSA 402-C:40, I; Gonya v. Commissioner, New Hampshire Insurance Dept., 153 N.H. 521, 535 (2006) (noting the “inherent uncertainty of any creditor’s recovery in a liquidation”). It is not expected that the allowed claims of any third party claimants (or other Class II creditors) of Home will be paid in full. Under the Settlement Agreement, the Diocese is responsible for any third party claimants’ claims against it, and they will be resolved in accordance with the Plan, the confirmation order, and applicable bankruptcy law and the procedures. See Settlement Agreement ¶ 4. Bengelsdorf Aff. ¶ 13.

12. The Liquidator is not aware of any proof of claim, other than the NMPCIGA’s proof of claim, asserting a claim to the same policy limits as the Proofs of Claim which are resolved by the Settlement Agreement. However, if a claim of a claimant is subject to the same limit of liability as the claims resolved by the Settlement Agreement, and if the total allowed amounts for all claimants exceed the limit, then the allowed amounts for claimants will be subject to adjustment under RSA 402-C:40, IV, so that the policy limit will not be exceeded. See Settlement Agreement ¶ 5. Bengelsdorf Aff. ¶ 14.

13. The Settlement Agreement contains provisions to minimize or avoid contribution or related claims between insurers of the Diocese. See Settlement Agreement ¶¶ 2(E), 6. Bengelsdorf Aff. ¶ 15.

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 the supervision of the Special Deputy Liquidator, 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 the Policies respecting the underlying liabilities of the Diocese. The Liquidator accordingly recommends approval of

the Settlement Agreement and allowance of the \$3,750,000 settlement amount as a Class II claim of the Diocese in accordance with RSA 402-C:45 and RSA 402-C:44. Bengelsdorf Aff. ¶ 16.

15. The Liquidator also recommends approval, upon payment to the Diocese or the Diocese's assignee by the NMPCIGA and submission of proof of that payment to the Liquidator, of the \$1,850,000 settlement payment by the NMPCIGA as a Class II claim of the NMPCIGA in accordance with RSA 402-C:45 and RSA 402-C:44. Bengelsdorf Aff. ¶ 17.

16. The Court has previously approved similar settlement agreements. See, e.g., Order Approving Settlement Agreement with Washington Gas (July 15, 2013); Order Approving Settlement Agreement with Wisconsin Energy (March 18, 2010); Order Approving Settlement Agreement with Straits Steel (May 3, 2009); Order Approving Commutation Agreement with Northwestern National Insurance Company and Settlement Agreement and Assignment of Distribution with AK Steel Corporation (March 10, 2006). The Liquidator's negotiation and the Court's approval of such agreements are authorized by the broad authority of the Liquidator to "compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court," RSA 402-C:45, I, and the authority of the Court to "approve, disapprove or modify any report on claims by the liquidator." RSA 402-C:45, II. It is also an appropriate exercise of the Liquidator's authority ("[s]ubject to the court's control") to "do such other acts . . . as are necessary or expedient for the accomplishment of or in aid of the purpose of liquidation." RSA 402-C:25, XXII.

17. In his Motion for Approval of Commutation with Northwestern National Insurance Company and Settlement Agreement and Assignment of Distribution with AK Steel Corporation ¶¶ 19-23 (February 16, 2006), the Liquidator provided his analysis of New Hampshire law, including RSA 402-C:40, III, as it applies to this type of comprehensive policy

coverage compromise and settlement in an insurer liquidation context. That analysis also applies to the proposed Settlement Agreement with the Diocese.

18. The Liquidator submits that the Settlement Agreement is fair and reasonable and in the best interests of the policyholders and creditors of Home. See Bengelsdorf Aff. ¶ 18.

WHEREFORE, the Liquidator respectfully requests that this Court:

- A. Grant this Motion;
- B. Enter an Order in the form submitted herewith approving the Settlement Agreement; approving the Liquidator's claim recommendations; allowing the Diocese's claims as a Class II claim in accordance with RSA 402-C:45 and RSA 402-C:44 in the amount of \$3,750,000; and allowing the NMPCIGA's claim (upon submission by the NMPCIGA of proof of its payment of the NMPCIGA settlement amount to the Diocese or the Diocese's assignee) as a Class II claim in accordance with RSA 402-C:45 and RSA 402-C:44 in the amount of \$1,850,000; 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
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New Hampshire Department of Justice
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(617) 542-2300

May 19, 2016

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Motion for Approval of Settlement Agreement with Diocese of Gallup, the Affidavit of Peter A. Bengelsdorf, and the Proposed Order, were sent this 19th day of May, 2016, by first class mail, postage prepaid to all persons on the attached service list.



Eric A. Smith
NH Bar ID No. 16952

THE STATE OF NEW HAMPSHIRE

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Docket No. 217-2003-EQ-00106

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SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("Settlement Agreement") is made by and between the Roman Catholic Church of the Diocese of Gallup ("Claimant" or "Debtor"), on the one hand, and Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, solely in his capacity as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), on the other hand (the Claimant and the Liquidator are hereinafter referred to collectively as the "Parties").

WHEREAS, certain tort and other legal claims have been asserted against Claimant alleging that Claimant is liable for bodily injuries inflicted by certain clergy members or others;

WHEREAS, Claimant has alleged that Home issued the following insurance policies to Claimant and/or the Bishop of the Diocese of Gallup, under which Claimant alleges to be insured:

<u>Policy Number</u>	<u>Policy Period</u>
8861719	10/1/65 to 10/1/68
8027335	10/1/68 to 10/1/71
8029028	10/1/71 to 10/1/74
8487334	10/1/74 to 10/1/77

which together with all other insurance policies that Home may have issued to Claimant or under which Claimant may be insured are defined collectively as the "Policies";

WHEREAS, Home is being liquidated pursuant to the June 13, 2003 Order of the Merrimack County Superior Court (the "Liquidation Court"), pursuant to which the Liquidator was appointed as the Liquidator of Home;

WHEREAS, as a result of Home's liquidation, Claimant has submitted claims under the Policies to New Mexico Property and Casualty Insurance Guaranty Association ("NMPCIGA"),

and Claimant and NMPCIGA are also entering into a settlement agreement to settle the disputes between NMPCIGA and Claimant and the claims submitted by Claimant (the "NMPCIGA Settlement");

WHEREAS, NMPCIGA has advised the Liquidator and Claimant that it will exercise its right of statutory subrogation with respect to the NMPCIGA Settlement if the NMPCIGA Settlement is approved by the Bankruptcy Court in the Claimant's Chapter 11 case referenced below;

WHEREAS, Claimant submitted claims in the Home liquidation estate with respect to insurance coverage for bodily injury liabilities that have been assigned the following proof of claim numbers:

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which, together with any other proofs of claim hereinbefore or hereinafter filed by Claimant in the Home liquidation are defined collectively as the "Proofs of Claim";

WHEREAS, Claimant has filed a petition under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of New Mexico ("the Bankruptcy Court"), and its petition remains pending under the caption *In re Roman Catholic Church of the Diocese of Gallup*, No. 13-13676-t11 (Bankr. D.N.M.);

WHEREAS, the Parties are desirous of resolving all claims that were asserted, or could have been or could be asserted, between them and of resolving all matters as between them concerning the Proofs of Claim and concerning all rights and obligations as between them with respect to the Policies;

NOW, THEREFORE, in consideration of all the respective transactions contemplated by this Settlement Agreement, and the mutual covenants and representations herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Effectiveness.** This Settlement Agreement is conditioned and shall become effective only upon the occurrence of all of the following events:
 - A. Approval by the Liquidation Court of the Settlement Agreement and a Class II priority allowance in the full Recommended Amount. The Liquidator shall move at his expense for approval of this Settlement Agreement by the Liquidation Court, and shall seek such approval promptly after execution of this Settlement Agreement.
 - B. Approval by the Bankruptcy Court of the Settlement Agreement, pursuant to the Plan, which shall be filed by the Claimant at its sole expense.
 - C. Entry by the Bankruptcy Court of a Final Order (as defined in the Plan) that approves a buyback of the Policies pursuant to Section 363 of the Bankruptcy Code in return for a Class II priority allowance in the amount of the Recommended Amount; provided, however, that the requirement that the Order be a Final Order may be waived by agreement of the Liquidator and the Claimant; and
 - D. Final approval by the Bankruptcy Court of a Plan of Reorganization for Claimant ("Plan"), where all available appeals have been resolved (unless the requirement of resolution of all available appeals has been waived by the Liquidator and the Claimant in accordance with the Plan), where such Plan provides channeling injunctions, with language substantially similar to the channeling injunction language set forth in the Plan filed by Debtor on March 21, 2016, in favor of the Liquidator and Home, such that any and all claims relating to the Policies are channeled to a trust established pursuant to the Plan.

The "Effective Date" of this Settlement Agreement is the date after all Parties have executed this Agreement and all of the conditions precedent set forth in this Paragraph 1 have been satisfied. In the event that the Liquidation Court or the Bankruptcy Court declines to

approve the Settlement Agreement, or in the event either such approval is subsequently reversed in a decision not subject to further appeal, this Settlement Agreement shall be null and void and without any force or effect, and the Parties shall return to their positions status quo ante this Settlement Agreement as if no such agreement ever was reached, with this Settlement Agreement thereafter being inadmissible for any purpose in any dispute between the Parties. In addition, under the preceding circumstances, nothing contained in this Settlement Agreement shall be deemed an admission of either party as to liability or with respect to any matter contained herein.

2. Recommendation, Allowance, and Classification of Claims.

A. Subject to all the terms of this Settlement Agreement, and with the agreement of Claimant, which by Claimant's execution hereof is hereby granted, the Liquidator shall recommend pursuant to N.H. RSA 402-C:45 that the Proofs of Claim be allowed in the amount of \$3,750,000 (the "Recommended Amount") as a Class II priority claim under N.H. RSA 402-C:44.

B. Subject to the approval of this Settlement Agreement by the Liquidation Court, and satisfaction of the conditions precedent stated in Paragraph 1 of this Settlement Agreement, the Liquidator, upon payment of \$1,850,000 to Debtor or its assignee by NMPCIGA pursuant to the NMPCIGA Settlement and submission by the NMPCIGA to the Liquidator of proof of such payment, will recommend allowance by the Liquidation Court of a Class II priority claim by NMPCIGA in the amount of \$1,850,000.

C. Provided all of the conditions precedent stated in Paragraph 1 have been satisfied, allowance of the Recommended Amount as a Class II claim by the Liquidation Court

shall fully and finally resolve the Proofs of Claim and any and all other claims of whatever nature that Claimant has against Home under the Policies.

D. Upon satisfaction of all conditions precedent stated in Paragraph 1, Claimant will become a Class II creditor in the Home liquidation estate pursuant to N.H. RSA 402-C:44, and Claimant shall, subject to this Settlement Agreement, receive distributions on the allowed Recommended Amount at the same intervals and at the same percentages as other Class II creditors of Home, including any interim distributions necessary to put the Claimant in the same position as such other Class II creditors that have received previous interim distributions.

E. The Liquidator shall not seek reimbursement of the Recommended Amount or any part thereof, directly or indirectly, from any person or entity, whether by way of a claim for contribution, indemnification, subrogation, retrospective premium, deductible, or otherwise; provided that nothing in this Paragraph 2E shall preclude the Liquidator from seeking reimbursement of such amounts from Home's reinsurers, solely in their capacities as such, nor shall anything in this Paragraph 2E preclude the Liquidator from raising the Settlement Agreement, the Recommended Amount, the Channeling Injunction, the Supplemental Injunction or the releases under the Plan as a defense to any claim for contribution, indemnification, subrogation, retrospective premium, deductible, or otherwise made by another insured under the Policies or from asserting a claim for contribution, indemnification, or subrogation from any insurer (a "Plaintiff Insurer") that asserts these types of claims against the Liquidator or Home in connection with the Policies. In the event that the Liquidator or Home successfully prosecutes a claim for contribution, indemnification, or subrogation against any Plaintiff Insurer, and the Liquidator or Home's recovery exceeds the recovery of the Plaintiff Insurer, the Liquidator shall

transfer to Claimant the difference between the Liquidator or Home's recovery from the Plaintiff Insurer and the Plaintiff Insurer's recovery from the Liquidator or Home, less any litigation expenses incurred by the Liquidator or Home.

3. Release by Debtor. Debtor's release of Home, the Liquidator and other Settling Insurers is set forth in Section 20.10 of the Plan.

4. Resolution of Matters. Upon satisfaction of the conditions precedent stated in Paragraph 1 of this Agreement, the Parties acknowledge that this Settlement Agreement is intended to resolve all matters as between them arising out of or relating to any rights or obligations the Parties ever had, now have, or hereafter may have under the Policies or the Proofs of Claim. Claimant agrees to address, at its sole cost and expense, any claims of third-party claimants against Claimant (as opposed to claims against Home) as if there had been no liquidation proceeding for Home and as if Claimant had no insurance coverage from Home by virtue of the Policies, except that Claimant can take into account the fact of this Settlement Agreement and the net proceeds thereof in establishing payment percentages and analyzing the assets available to Claimant for payment of third-party claims. Notwithstanding the foregoing, nothing in this Paragraph 4 shall nor is it intended to modify or otherwise reduce the applicability of the discharge, releases and injunctions provided to the Claimant pursuant to the Plan, the Confirmation Order and the Bankruptcy Code nor to provide a right of a third-party claimant to assert a claim against the Claimant under this Agreement. Any claims by a third-party claimant against the Claimant shall be subject to the and determined by the Plan, the Confirmation Order and the Bankruptcy Code.

5. Multiple Claims. New Hampshire RSA 402-C:40 (IV) provides that in the event multiple claims against the same policy limit are filed, and the aggregate allowed amount of all claims to which the same limit of liability in the policy is applicable exceeds that limit, then each claim as allowed shall be reduced in the same proportion so that the total equals the policy limit. The Liquidator will be unable to determine whether, or the extent to which the Recommended Amount may be subject to proration until all claims against the policy are identified and evaluated. If the aggregate allowed amount of claims exceeds the applicable limit such that Claimant's claim is subject to proration, the Liquidator will inform Claimant accordingly. Notwithstanding the foregoing, nothing in this Paragraph 5 shall nor is it intended to modify or otherwise reduce the applicability of the discharge, releases and injunctions provided to the Claimant, its assignees, Home, and the Liquidator pursuant to the Plan and the Confirmation Order.

6. Judgment Reduction. In the event that Debtor obtains a judgment against any insurer, Section 24.3 of the Plan shall apply.

7. No Assignments. Solely to the extent of matters released under this Settlement Agreement: (a) Claimant warrants and represents that, as of the date on which it executed this Agreement, Claimant has not assigned, conveyed, or otherwise transferred any claims, demands, causes of action, rights, or obligations related in any way to the Policies, or any proceeds thereof, or the Proofs of Claim, or the claims, losses, and expenses released herein, to any person or entity; and (b) Claimant shall not assign or otherwise transfer this Settlement Agreement or any rights or obligations thereunder without the written consent of the Liquidator, which consent shall not be unreasonably withheld. Nothing in this provision shall in any way affect any

assignments pursuant to the Plan to the Trust, and Liquidator specifically consents to such transfer provided that a condition of the assignment is that the Trustee accepts the obligations of Debtor under Section 8 of this Settlement Agreement..

8. Further Assurances. The Parties shall take all further actions as may be necessary to carry out the intent and purpose of this Settlement Agreement and to consummate the transactions contemplated herein. Neither Debtor nor the Liquidator believe that they have any reporting obligation under the Medicare Secondary Payer Act or the Medicare, Medicaid and SCHIP Extension Act of 2007 (collectively, the "Acts") in connection with any funds distributed pursuant to this Settlement Agreement. If Debtor or the Liquidator becomes obligated under the Acts in connection with any funds distributed pursuant to this Settlement Agreement, the other Party agrees to provide the Party so obligated with any claim data in that Party's possession that would be reportable under the Acts. Each Party also agrees to use reasonable efforts to obtain any reportable claims data in the event that the other Party is obligated under the Acts in connection with any funds distributed pursuant to this Settlement Agreement.

9. Governing Law and Venue. This Settlement 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.

10. Due Diligence. The Parties acknowledge and agree that, in negotiating and executing this Settlement Agreement, they have relied upon their own judgment and upon the recommendations of their own legal counsel, that they have read this Settlement Agreement and have had the opportunity to consider its terms and effects, and that they have executed this Settlement Agreement voluntarily and with full understanding of its terms and effects. This

Settlement Agreement is the product of negotiations between the Parties. No Party shall be charged with having promulgated this Settlement Agreement, and the general rule that ambiguities are to be construed against the drafter shall not apply to this Agreement.

11. No Third Party Rights. This Settlement Agreement is entered into solely for the benefit of the Liquidator, Home and Claimant, and is not intended to, and does not give or create any right to or in any person or entity other than the Parties except that upon confirmation of the Plan and satisfaction of the conditions precedent hereto, the assignee of Claimant's rights hereunder in accordance with Paragraph 7 above shall succeed to Claimant's rights hereunder.

12. Counterparts. This Settlement 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.

13. Power and Authority to Execute. Subject to the approvals of the Liquidation Court and the Bankruptcy Court as set forth in Paragraph 1, each Party hereto represents and warrants that it has the full power and authority to execute, deliver, and perform this Settlement Agreement; that all requisite and necessary approvals, other than approval of the Liquidation Court and the Bankruptcy Court, have been obtained to consummate the transactions contemplated by this Settlement Agreement; that there are no other agreements or transactions to which it is a party that would render this Settlement Agreement or any part thereof, void, voidable or unenforceable; that each individual signing on behalf of a Party has been duly authorized by that Party to execute this Settlement Agreement on its behalf; and that no claims

being released under the terms of this Settlement Agreement have been assigned, sold, or otherwise transferred to any other entity.

14. Successor-in-Interest Bound. This Settlement Agreement shall be binding upon, and shall inure to the benefit of the Parties and their respective trustees, officers, directors, employees, attorneys, liquidators, receivers, administrators, agents, representatives, successors, and assigns.

15. Entire Agreement. This Settlement Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter thereof. This Settlement Agreement supersedes all prior agreements and understandings, whether written or oral, concerning such matters.

16. Survival of Warranties and Representations. The warranties and representations made herein shall survive the execution of this Settlement Agreement.

17. Validity of Settlement Agreement. Subject to approval of this Settlement Agreement by the Liquidation Court and the Bankruptcy Court as required by Paragraph 1, each Party represents and warrants that this Settlement Agreement is a legal, valid, and binding obligation, enforceable in accordance with its terms.

18. No Waiver. No waiver of any right under this Settlement Agreement shall be deemed effective unless contained in a writing signed by the Party or an authorized representative of the Party charged with such waiver, and no waiver of any breach or failure to perform shall be deemed to be a waiver of any future breach or failure to perform or of any other provision of this Settlement Agreement. This Settlement Agreement may not be amended except

in a document signed by the Party or an officer or other authorized official of the Party to be charged.

19. Notice. All notices to be given under this Settlement Agreement shall be given by facsimile and first class U.S. mail directed to:

If to Claimant, to:

Bishop James Wall
Diocese of Gallup
711 S. Puerco
Gallup, New Mexico 87301
Fax 505-722-9131

and

Bishop James Wall
Diocese of Gallup
P.O. Box 1338
Gallup, New Mexico 87305

and

Susan Boswell
Quarles & Brady LLP
One S. Church Avenue, Suite 1700
Tucson, Arizona 85701
Fax: 520-623-2418

and

James Stang
Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Boulevard, 13th Floor
Los Angeles, CA 90067-4003
Fax: 310-201-0760

If to the Liquidator, to:

Thomas W. Kober, Chief Claims Officer
The Home Insurance Company in Liquidation
61 Broadway 6th Floor
New York, New York 10006
Fax: 212-299-3824

and

J. Christopher Marshall
Civil Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, New Hampshire 03301-6397
Fax: 603-271-2110

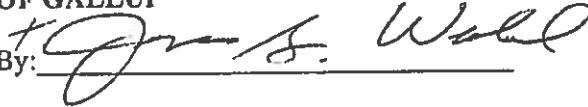
and

J. David Leslie, Esq.
Rackemann, Sawyer & Brewster, P.C.
160 Federal Street
Boston, MA 02110-1700
Fax: 617-542-7437

20. Severability. If any provision of this Settlement Agreement is invalid, unenforceable, or illegal under the law of any applicable jurisdiction, the validity and enforceability of such provision in any other jurisdiction shall not be affected thereby and the remaining provisions of this Settlement Agreement shall remain valid and enforceable. However, in the event of such invalidity, unenforceability, or illegality, the Parties shall negotiate in good faith to amend this Settlement Agreement through the insertion of additional provisions which are valid, enforceable, and legal and which reflect, to the extent possible, the purposes contained in the invalid, unenforceable, or illegal provision.

WHEREFORE, the Parties have caused this Settlement Agreement to be executed on their respective behalves as of the date below the signatures of their duly authorized representatives.

**ROMAN CATHOLIC CHURCH OF THE DIOCESE
OF GALLUP**

By: 

Name: Bishop James S. Wall

Title: The Most Reverend James S. Wall, Fourth Bishop of Gallup

Date: April 15, 2016

**BISHOP OF THE ROMAN CATHOLIC CHURCH
OF THE DIOCESE OF GALLUP**

By: 

Name: Bishop James S. Wall

Title: The Most Reverend James S. Wall, Fourth Bishop of Gallup

Date: April 15, 2016

**ROGER A. SEVIGNY, INSURANCE
COMMISSIONER OF THE STATE OF
NEW HAMPSHIRE, SOLELY IN HIS
CAPACITY AS LIQUIDATOR OF
THE HOME INSURANCE COMPANY**

By: _____

Name: _____

Title: _____

Date: _____

**ROMAN CATHOLIC CHURCH OF THE DIOCESE
OF GALLUP**

By: _____

Name: _____

Title: _____

Date: _____

**ROGER A. SEVIGNY, INSURANCE
COMMISSIONER OF THE STATE OF
NEW HAMPSHIRE, SOLELY IN HIS
CAPACITY AS LIQUIDATOR OF
THE HOME INSURANCE COMPANY**

By: Thomas W. Kober

Name: Thomas W. KOBER

Title: Chief Claims Officer

Date: April 19, 2016