

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 EIGHTH MOTION FOR
APPROVAL OF DISPOSAL OF CERTAIN RECORDS**

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 pursuant to RSA 402-C:50 approving the disposal of (1) boxes of closed claim files, boxes of field office copies of policies, and boxes of General Counsel's Office and State Filing Department files dating from before the liquidation for which there are no useful box inventories, and (2) correspondence files and general subject files created since 2003. As reasons therefor, the Liquidator states as follows:

1. Background. As set forth in the Liquidator's seven earlier motions for approval of disposal of certain records filed November 24, 2004, July 15, 2005, July 3, 2008, February 16, 2011, July 29, 2011, December 10, 2013, and June 18, 2015, along with the Liquidator's motion for approval to dispose of imaged records filed in January, 2005 (the "Imaging Motion"), the Home estate has numerous documents that are no longer needed, and it continues to incur significant expense to store the documents. The Liquidator accordingly has sought approval of the Court to dispose of categories of documents that the Liquidator has determined are no longer useful. Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Liquidator's Eighth Motion for Approval of Disposal of Certain Records ("Bengelsdorf Aff.") ¶ 2.

2. The New Hampshire Insurers Rehabilitation and Liquidation Act provides for disposal of documents of insurers in liquidation in RSA 402-C:50, which provides:

Disposition of Records During and After Termination of Liquidation. - Whenever it appears to the commissioner that the records of any insurer in process of liquidation or completely liquidated are no longer useful, he or she may recommend to the court what records should be retained for future reference and what should be disposed of. The court shall enter an order thereon. Until further order of the court, the commissioner shall keep all records the court orders preserved and shall destroy the remainder whether or not the records have been photographed or otherwise reproduced.

3. Pursuant to this statute and the Liquidator's motions, the Court has authorized disposal of certain categories of records by Orders Approving the Disposal of Certain Records entered December 16, 2004, August 12, 2005, August 19, 2008, May 2, 2011, November 10, 2011, January 30, 2014, and June 24, 2015, and the Order Approving Disposal of Imaged Records entered February 17, 2005. The Order Approving Disposal of Imaged Records provided that the Liquidator may dispose of papers records where imaged copies are stored on Home's computer system. Pursuant to these orders, liquidation staff has disposed of over 95,000 boxes of documents as of September 1, 2017. Nonetheless, approximately 82,000 boxes remain in storage with off-site vendors (principally Iron Mountain), in addition to the boxes stored at the liquidation offices. The annual cost of storing the records with off-site vendors is approximately \$377,000 per year, and disposal of even part of the boxes in off-site storage would result in significant savings. Bengelsdorf Aff. ¶ 3.

4. This motion requests authority to dispose of records that are not useful, including 10,362 boxes of records in storage at Iron Mountain. Under the Liquidator's contract with Iron Mountain, it presently costs an average of approximately \$4.60 per year to store a box. Accordingly, disposal of the boxes at Iron Mountain will save the Home estate approximately \$47,665 per year. Bengelsdorf Aff. ¶ 4.

5. The contents of the boxes at Iron Mountain that are the subject of this motion are functionally inaccessible because there are no useful inventories for the boxes. As noted in the Liquidator's Fourth Motion for Approval of Disposal of Records ¶ 6 (February 16, 2011), prior to Home's liquidation, many boxes of files were sent to storage without being inventoried beyond a general description of the types of files in the box. The time and expense that would be required to retrieve the boxes from storage and inventory them to create a file by file inventory would be significant, and it would be an unnecessary expenditure of Home estate assets. In the absence of inventories, the boxes of documents are not useful. The Court approved the disposal of two categories of uninventoried files (professional liability program administrator underwriting files and staff counsel files) in the order entered May 2, 2011 (attached as Exhibit A). This motion requests approval to dispose of additional categories of records that cannot reasonably be accessed and so are not useful. Bengelsdorf Aff. ¶ 5.

6. Field office policy boxes. The first category of boxes at issue are 3,795 boxes stored at Iron Mountain and coded as "Field Office Policies". Prior to its liquidation in 2003, Home generally maintained copies of policies both at its home office and at the field office involved in placing the policies. The Liquidator requested approval to dispose of field office copies of policies in his Second Motion for Approval of Disposal of Certain Records (July 15, 2005), and the Court approved that disposal by the order entered August 12, 2005 (attached as Exhibit B). The Liquidator disposed of the field office copies where they could be identified as duplicates of home office copies. During 2016, liquidation staff made a significant effort to match field office copies of policies with home office copies so as to dispose of more boxes of unnecessary files. In connection with that exercise, staff found that the field office policies in these 3,795 boxes could not be identified either from Home's policy database or Iron Mountain's

electronic records system, Iron Mountain Connect. The box numbers are identified as field office policies in Home's box database, reflecting that the boxes come from Home's various field offices. However, the policies are not inventoried in the policy database nor in Iron Mountain Connect, so the contents of the boxes cannot be determined. Bengelsdorf Aff. ¶ 6.

7. Neither Home's electronic records systems nor Iron Mountain's electronic records system contain inventories of the contents of the 3,795 boxes. While Home's records do include imaged copies of paper box transmittals from some of the boxes, the scanned images are not searchable. These paper lists are not uniform in content, varying by page, with some including handwritten notes. The only way for liquidation staff to determine what policies are in these boxes would be either to manually input the lists (which contain thousands of pages and may be incomplete) into the computer system or to retrieve the boxes from Iron Mountain and have staff manually review their contents and create an inventory. The cost to retrieve boxes and then return them to storage under the current Iron Mountain contract is \$3.76 per box for a total of \$14,269 for this category of boxes. This does not include costs of shipping the 3,795 boxes. In light of the experience with inventorying boxes underlying the Fifth Motion described below, the Liquidator believes the out-of-pocket costs and the significant expenditure of liquidation staff time that would be required to create inventories of thousands of boxes is not an appropriate use of limited Home estate resources. However, without usable inventories, the contents of the boxes is functionally unknown and the records are not useful. In light of the annual cost of approximately \$17,457 to store these boxes, the Liquidator requests authority to dispose of them. The Liquidator also requests authority to dispose of any additional boxes of uninventoried field office policies which may be identified in the future. Bengelsdorf Aff. ¶ 7.

8. Closed claim file boxes. The second category of boxes are 6,457 boxes stored at Iron Mountain and coded as “Closed Claims”. The Liquidator previously moved for authority to dispose of closed claim files with no activity for specified periods, unless they were involved in a pending dispute or proof of claim, in the Liquidator’s Third Motion for Approval of Disposal of Certain Records (July 3, 2008). The Court approved the disposal of such closed claim files, except those that relate to pending or anticipated litigation, by order entered on August 19, 2008 and attached as Exhibit C. Liquidation staff subsequently found that some of the boxes being disposed of pursuant to that order contained uninventoried files. After attempting to prepare new inventories for a number of boxes, the Liquidator determined that retrieving, inventorying, and returning the boxes to storage was too time consuming and expensive to be warranted. The Liquidator accordingly moved for authority to dispose of boxes of claim files based upon existing inventories, even though they may be incomplete, in the Liquidator’s Fifth Motion for Approval of Disposal of Certain Records (Closed Claim Files) (July 29, 2011). The Court approved that request by order entered November 10, 2011 (attached as Exhibit D). Bengelsdorf Aff. ¶ 8.

9. Liquidation staff has now identified 6,457 boxes of closed claim files that have no functional inventories. Neither Home’s electronic records systems nor Iron Mountain Connect contain any inventories of the contents of the boxes. As there is no electronic inventory of the boxes, liquidation staff is unable to conduct an electronic search to locate a particular file, and the files are of no use to the Home liquidation.

10. Liquidation staff has located copies of paper transmittals for thousands of boxes, some of which may pertain to the 6,457 boxes here. However, the boxed records are functionally inaccessible without an electronic inventory. The thousands of pages of paper

transmittals, many of which have been imaged, were created by the claim offices and departments prior to March 2003, when the Home proceeding was filed. The detail of the transmittals is limited and varied, and they are not searchable electronically. The only way to determine what files are in these boxes would be to retrieve the boxes from Iron Mountain and have staff manually review their contents and create an inventory. The cost to retrieve boxes and then return them to storage under the current Iron Mountain contract is \$3.76 per box for a total of \$24,278 for this category of boxes. This does not include shipping costs. In light of the experience with inventorying boxes underlying the Fifth Motion described above, the Liquidator believes the out-of-pocket costs and the significant expenditure of liquidation staff time that would be required to create inventories of thousands of boxes is not an appropriate use of limited Home estate resources. However, without inventories, the contents of the 6,457 boxes is unknown and the records are not useful. In light of the annual cost of approximately \$29,702 to store these boxes, the Liquidator requests authority to dispose of them. The Liquidator also requests authority to dispose of any additional boxes of uninventoried closed claim files which may be identified in the future. Bengelsdorf Aff. ¶ 10.

11. General Counsel's Office and State Filing Department files boxes. The third category consists of 110 boxes of pre-liquidation files. Liquidation staff's review of the General Counsel's Office box list at Iron Mountain has identified 51 boxes for which there are no box inventories at Home or at Iron Mountain. Iron Mountain's system only provides high level, incomplete descriptions of the boxes' contents (e.g., "Litigation" or "Regulatory"). Review of the State Filing Department's box list at Iron Mountain has identified 59 boxes for which there are no box inventories. Iron Mountain's system only provides high level, incomplete descriptions of the boxes' contents (e.g., "State Files AL – NY 1978" or "Bills 1977-1978").

The State Filing Department was responsible for form and rate filings with state insurance departments. The Liquidator believes the costs of retrieval and return of the 110 boxes to Iron Mountain and the expenditure of staff time to inventory the boxes would be an inappropriate use of the Home estate's limited assets. Without inventories, the records are not useful. In light of the annual costs of storing these boxes, the Liquidator requests authority to dispose of them. The Liquidator also requests authority to dispose of any additional boxes of uninventoried General Counsel's Office or State Filing Department files which may be identified in the future.

Bengelsdorf Aff. ¶ 11.

12. Employee correspondence files and general subject files. The final category of files are employee correspondence files and general subject files. The Liquidator previously requested authority to dispose of such files dating from before 1995 in the Liquidator's First Motion for Approval of Disposal of Certain Records (November 24, 2004), which was granted by order issued December 16, 2004 (attached as Exhibit E). The Liquidator requested that authority be extended to files dating from before March 2003 in the Liquidator's Third Motion for Approval of Disposal of Certain Records (July 3, 2008), which was granted by order issued August 19, 2008 (attached as Exhibit C). Bengelsdorf Aff. ¶ 12.

13. The Liquidator now requests authority to dispose of such files dating to the present and in the future where the employee determines that the files are no longer useful. Employee correspondence files and general subject files do not include files concerning particular proofs of claim, and in any event, the Liquidator will retain any such files that are involved in a pending or anticipated dispute or proof of claim. Most of these files are stored at the Home liquidation's offices in New York, New York. The Liquidator has given up part of the New York office space as of December 31, 2017. As part of the effort to reduce the amount of

files to be stored in the limited office space, the Liquidator requests authority to dispose of unnecessary files instead of paying to store them at Iron Mountain. Bengelsdorf Aff. ¶ 13.

14. Recommendation. The Liquidator has concluded that the uninventoried boxes of field office policies, closed claim files, and General Counsel's Office and State Filing Department files discussed above are not useful. The Liquidator has similarly concluded that employee correspondence files and general subject files are not useful when the employee so determines. The Liquidator accordingly recommends and requests approval to dispose of them pursuant to RSA 402-C:50.¹ The Liquidator will retain any employee correspondence files or general subject files that concern pending proofs of claim or pending or anticipated disputes. Bengelsdorf Aff. ¶14.

¹ Certain parties to litigation in California and Minnesota have requested that the Liquidator retain any files concerning the claimant companies that are plaintiffs in those actions. See Liquidator's Supplemental Filing Concerning Fourth Motion for Approval of Disposal of Certain Records (March 18, 2011). Further, certain insurers asserting contribution claims have requested that the Liquidator retain records concerning claims asserted by specified policyholders. To the best of the Liquidator's knowledge, none of the records that are the subject of this motion fall in these categories.

WHEREFORE, the Liquidator respectfully requests that this Court:

- A. Grant this Eighth Motion for Approval of Disposal of Certain Records;
- B. Enter an Order in the form submitted herewith approving the disposal of (1) the boxes of uninventoried field office policies, including any such boxes which may be identified in the future; (2) the boxes of uninventoried closed claim files, including any such boxes which may be identified in the future; (3) the boxes of uninventoried General Counsel's Office and State Filing Department files, including any such boxes which may be identified in the future; and (4) employee correspondence files and general subject matter files (except those which concern pending proofs of claim or pending or anticipated disputes); 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,

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September 25, 2017

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Eighth Motion for Approval of Disposal of Certain Records, the Affidavit of Peter A. Bengelsdorf, and the Proposed Order, were sent, this 25th day of September, 2017, 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

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of
The Home Insurance Company
Docket No. 217-2003-EQ-00106

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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

Docket No. 03-E-0112

In the Matter of the Liquidation of
US International Reinsurance Company

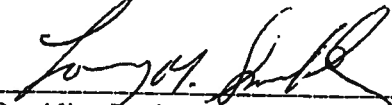
ORDER APPROVING THE DISPOSAL OF CERTAIN RECORDS

On consideration of the fourth motion of Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company and U.S. International Reinsurance Company, for an order approving the disposal of records described in the motion and set forth on the attached schedule (the "Records"), and the supporting affidavit of Peter A. Bengelsdorf, it is hereby ORDERED as follows:

1. Disposal of the Records is reasonable, prudent and in the best interests of the liquidation of the Companies;
2. The Liquidator's Fourth Motion for Approval of Disposal of Certain Records is GRANTED, and the disposal of the Records is APPROVED, with the exception that any records which relate to the pending or anticipated litigation shall be retained.

APPROVED
So Ordered.

Dated: 5/2/11



Presiding Justice

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**

Docket No. 03-E-0112

**In the Matter of the Liquidation of
US International Reinsurance Company**

ORDER APPROVING THE DISPOSAL OF CERTAIN RECORDS

On consideration of the second motion of Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company and U.S. International Reinsurance Company, for an order approving the disposal of records described in the motion and set forth on the attached schedule (the "Records"), and the supporting affidavit of Peter A. Bengelsdorf, it is hereby ORDERED as follows:

1. Disposal of the Records is reasonable, prudent and in full accordance with law;
2. Disposal of the Records is in the best interests of the liquidation of the Companies;
3. Disposal of the Records is being done in good faith; and
4. The Liquidator's Second Motion for Approval of Disposal of Certain Records is GRANTED, and the disposal of the Records is APPROVED.

So Ordered.

Dated: 8/12/05


Presiding Justice

Schedule of Records for Disposal

- a. Accounting department records for 2000 and earlier periods.
- b. Personal lines records.
- c. Closed collection files.
- d. Cancelled and returned security records.
- e. Closed bankruptcy files.
- f. Third party administrator records for periods prior to 2000.
- g. Producer files.
- h. Closed security deposit files.
- i. Loss control reports.
- j. Data processing department reports for 2000 and earlier periods.
- k. Field office administrative files.
- l. Field office policy copies.
- m. Closed retrospective rating adjustment files.
- n. RMS input forms.
- o. Staff counsel files.
- p. Treasury department files for 2000 and earlier periods.
- q. Human resource department files.
- r. THICO Premium Finance files.
- s. Closed claim files on policies identified for destruction in item a of the Schedule to the December 16, 2004 Order or item b above.

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

Docket No. 03-E-0112

In the Matter of the Liquidation of
US International Reinsurance Company

ORDER APPROVING THE DISPOSAL OF CERTAIN RECORDS

On consideration of the third motion of Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company and U.S. International Reinsurance Company, for an order approving the disposal of records described in the motion and set forth on the attached schedule (the "Records"), and the supporting affidavit of Peter A. Bengelsdorf, it is hereby ORDERED as follows:

1. Disposal of the Records is reasonable, prudent and in the best interests of the liquidation of the Companies;
 2. The Liquidator's Third Motion for Approval of Disposal of Certain Records is GRANTED, and the disposal of the Records is APPROVED, *with the exception that any records on the attached schedule which relate to pending or anticipated litigation shall be retained.*
- So Ordered.

Dated: Aug. 19, 2008

Carol Ann Conboy
Presiding Justice

Schedule of Records for Disposal

- i. General Categories**
 - a. Aviation business records dated prior to March 2003 including closed claim files;
 - b. Closed claim files with no activity for 20 years for environmental, mass tort and workers' compensation claims or for 10 years for other types of claims;
 - c. Corporate risk management records dated prior to 1995;
 - d. Facilities management and real estate records for formerly leased or owned properties dated prior to March 2003;
 - e. Management and loan records for Home's former mortgage loan portfolio dated prior to March 2003;
 - f. Financial reporting records prior to 1990 other than filed statements;
 - g. General Counsel's Office files dated prior to March 2003;
 - h. Human resources, corporate security and employee relations records dated prior to March 2003 and held beyond any statutorily required retention period;
 - i. Consumer complaints records dated prior to March 2003;
 - j. Information technology system documentation for no longer used systems or programs;
 - k. Claim investigation records dated prior to March 2003;
 - l. Investment records for former investments dated prior to March 2003;
 - m. Stock records dated prior to March 2003;
 - n. Records of City Insurance Co. - UK Branch dated prior to March 2003 consisting of third party administrator ("TPA") system control reports, duplicate regulatory reports, closed arbitration and commutation files, duplicate internal reporting documents, closed reinsurance collections files, correspondence regarding closed claims, and internal TPA communications;
 - o. Reinsurance Department files dated prior to March 2003 other than contract files;
 - p. Commercial lines rate, rule, form and statistical regulatory filings dated prior to 1997;
 - q. Tax, assessment and surcharge reporting records dated prior to March 2003 and held beyond any statutorily required retention period; and
 - r. Underwriting and underwriting related records dated prior to March 2003 other than policy files.

- 2. Records in the following categories addressed in the previous orders approving disposal of records that are dated after the cutoff date in the Court's prior orders but prior to March 2003:**

First Order dated December 16, 2004:

- (g) Correspondence files, general subject files and personal expense account files of employees;
- (h) State files regarding residual property markets and FAIR (Fair Access to Insurance Requirements) plans;
- (j) Claim response time reports; and
- (k) Catastrophe bulletins and reports.

Second Order dated August 12, 2005:

- (a) Accounting department records;**
- (f) Third party administrator records;**
- (j) Data processing department reports;**
- (p) Treasury department files; and**
- (q) Human resource department files.**

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

[PROPOSED]

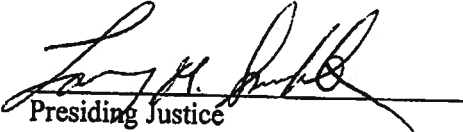
ORDER APPROVING THE DISPOSAL OF CERTAIN RECORDS

On consideration of the fifth motion of Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company, for an order approving the disposal of closed claim files as described in the motion (the "Records"), and the supporting affidavit of Peter A. Bengelsdorf, it is hereby ORDERED as follows:

- 1. Disposal of the Records is reasonable, prudent and in the best interests of the liquidation of the Companies;
- 2. The Liquidator's Fifth Motion for Approval of Disposal of Certain Records (Closed Claim Files) is GRANTED, and the disposal of the Records is APPROVED.
- 3. The Liquidator is authorized to dispose of boxes of closed claims files that are determined to be eligible for disposal (as to the time frames specified in Schedule ¶ 1(b) of the August 19, 2008 Order and as not concerning a proof of claim or pending or anticipated litigation) based on review of existing box inventories, without review and re-inventorying of the boxes.

Approved
So Ordered.

Dated: 11/10/11


Presiding Justice

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

Docket No. 03-E-0112

In the Matter of the Liquidation of
US International Reinsurance Company

ORDER APPROVING THE DISPOSAL OF CERTAIN RECORDS

On consideration of the motion of Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home") and U.S. International Reinsurance Company ("USI Re") (collectively, the "Companies"), for an order approving the disposal of records described in the motion and set forth on the attached schedule (the "Records"), and the supporting affidavit of Peter A. Bengelsdorf, it is hereby ORDERED as follows:

1. Disposal of the Records is reasonable, prudent and in full accordance with law;
2. Disposal of the Records is in the best interests of the liquidation of the Companies;
3. Disposal of the Records is being done in good faith; and
4. The Liquidator's Motion for Approval of Disposal of Certain Records is GRANTED, and the disposal of the Records is APPROVED.

So Ordered.

Dated:

12/16/04


Presiding Justice

Schedule of Records for Disposal

- a. Policy files (including the policies) and underwriting files for policies concerning which (i) no outstanding losses had been noticed prior to the liquidation, and (ii) no proofs of claim have been filed in the liquidation. The policy and underwriting files will not include files concerning liability policies.
- b. Files regarding circulars and bulletins from rating organizations in which Home was a participating company and correspondence with those organizations from before 1996.
- c. Files regarding organizations in which Home or USI Re was a participating company or from which Home or USI Re received information in 1995 or earlier years.
- d. Files regarding budget information for the Companies in 1995 or earlier years.
- e. Files regarding the state filings of rates, rules, forms, or statistics made with state regulatory authorities for the following lines of business in 1995 or earlier years:
 1. Personal lines;
 2. Accident and health;
 3. Commercial inland marine;
 4. Monoline property;
 5. Earthquake; and
 6. Bonds/surety.
- f. Files regarding legislative enactments or actions afoot in the country in 1995 or earlier years.
- g. Correspondence files, general subject files, and personal expense account files of employees from 1995 or earlier years.
- h. State files regarding residual property markets and FAIR (Fair Access to Insurance Requirements) plans in 2000 and earlier years.
- i. Files regarding internal operational reports from 1995 or earlier years.
- j. Claim response time reports from 1995 or earlier years.
- k. Catastrophe bulletins and reports from 1995 or earlier years.
- l. AM Best & Company books and reports from 2000 or earlier years.
- m. Monthly financial reports from 2000 or earlier years.
- n. Extra copies of the Companies' annual statements.