

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**

**AFFIDAVIT OF PETER A. BENGELSDORF, SPECIAL DEPUTY
LIQUIDATOR, IN SUPPORT OF MOTION FOR APPROVAL OF
SETTLEMENT AGREEMENT WITH RHEEM MANUFACTURING CO.**

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 Rheem Manufacturing Co. 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 Rheem Manufacturing Co. (“Claimant”), formerly a wholly owned subsidiary of City Investing Co., 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 twenty insurance policies to Rheem Manufacturing Co. and/or City Investing Co. under which the Claimant is the named insured for various periods between January 1, 1971 and December 31, 1985, which, together with all other insurance policies Home

may have issued to Rheem Manufacturing Co. and/or City Investing Co., are referred to collectively as the “Policies”. Settlement Agreement, first Whereas clause. Upon Home’s placement in liquidation, the Claimant filed twenty-four proofs of claim in the Home liquidation regarding asserted claims, including asbestos claims, which, together with any other proofs of claim hereinbefore or hereinafter filed by the Claimant in the Home liquidation, are referred to collectively as the “Proofs of Claim”. Id., third Whereas clause.

4. By Order of the Liquidation Court dated March 7, 2016, a partial allowance in the amount of \$5,461,270 was previously approved by the Liquidation Court as a Class II priority claim in partial resolution of the Proofs of Claim and the Policies on March 7, 2016 (“Partial Allowance”). Id., fourth Whereas clause.

5. The Liquidator and the Claimant have negotiated the Settlement Agreement reflecting a resolution of the Proofs of Claim and all matters between them under the Policies. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 1.

6. The Settlement Agreement provides that the Liquidator will recommend allowance of the Proofs of Claim in the aggregate amount of \$10,000,000 (“Recommended Amount”) as a Class II priority claim under RSA 402-C:44. The Recommended Amount is in addition to the Partial Allowance. Settlement Agreement ¶ 2(A). Allowance of the Recommended Amount as a Class II claim will fully and finally resolve the Proofs of Claim and all claims the Claimant have under the Policies. Id. ¶ 2(B). Distributions based on that allowance will be made at the same intervals and at the same percentages as distributions to other Class II creditors of Home. Id. ¶ 2(C).

7. The Settlement Agreement is intended to resolve the Proofs of Claim and all claims that the Claimant 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 the Claimant arising from or related to the Proofs of Claim or the Policies.

Id. ¶¶ 3, 4.

8. In resolving all of the Claimant'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 Claimant 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 Claimant under the Policies. See Settlement Agreement ¶ 5. The Claimant agrees to address, at its sole cost, any such claims of third-party claimants against the Claimant as if there had been no liquidation proceeding for Home and as if the Claimant had no insurance coverage from Home by virtue of the Policies. Id. The Claimant also agrees to indemnify and hold the Liquidator and Home harmless from all claims arising from or relating to the Proofs of Claim or the Policies, including asserted rights of third party claimants, up to the amount ultimately distributed or distributable to the Claimant. Id.

9. 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 Claimant will not harm the third party claimants who will continue to have their claims against the Claimant. As noted above, the Claimant 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 the agreement, would release the Claimant 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. 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 Claimant is responsible for any third party claimants' claims against it. Id. ¶ 5.

10. With the exception of a contribution proof of claim filed by Travelers Insurance Co., the Liquidator is not aware of any proofs of claim asserting a claim to the same policy limits as the Proofs of Claim resolved by the Settlement Agreement. However, if a claim of another 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 all claimants will be subject to adjustment under RSA 402-C:40, IV, so that the policy limit will not be exceeded. Settlement Agreement ¶ 6.

11. The Settlement Agreement reflects a compromise of the claim 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 the Policies respecting the underlying liabilities of the Claimant. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$10,000,000 settlement amount as a Class II claim of the Claimant in accordance with RSA 402-C:45, and RSA 402-C:44.

12. 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 28 day of March, 2017.

Peter A. Bengelsdorf

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

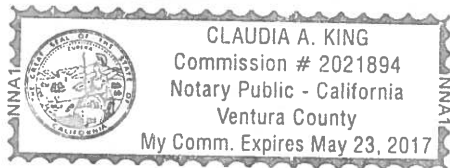
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA
COUNTY OF VENTURA

On March 28, 2017 before me, CLAUDIA A. KING - 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 *Claudia A. King*
Signature of Notary Public