

**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 AMERICAN ELECTIC POWER COMPANY**

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 of 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 American Electric Power Company. 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 American Electric Power Company, Inc., Ohio Power Company (successor by merger to Columbus and Southern Ohio Electric Company), AEP Texas Inc. (successor to Central and South West Corporation, Central Power and Light Company and West Texas Utilities), Public Service Company of Oklahoma, and Southwestern Electric Power Company (collectively "Claimants") 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 two policies under which American Electric Power Company, Inc., is a named insured for various periods between June 23, 1966 and August 23, 1969, a policy under which Columbus and Southern Ohio Electric Company is a named insured for the period October 31, 1969 and October 31, 1972, and two insurance policies under which Central and South West Corporation, Central Power and Light Company, West Texas Utilities, Public Service Company of Oklahoma, and Southwestern Electric Company are named insureds/reinsureds for various periods between February 29, 1969 and November 15, 1977 which, together with all other insurance policies issued by Home under which American Electric Power Company, Inc., Columbus and Southern Ohio Electric Company, Central and South West Corporation, Central Power and Light Company, West Texas Utilities, Public Service Company of Oklahoma or Southwestern Electric Power Company is a named insured or an additional insured, are referred to collectively as the "Policies". Settlement Agreement, first Whereas clause.

4. Two of the Policies identify the named insured as Middlewest Services Co. and a third identifies the named insured as CSL, Inc. Etal. These policies include endorsements identifying certain companies that are not affiliated with the Claimants (the "Risk Management Trust and CSL Insureds") as named reinsureds. The rights and interests of the Risk Management Trust and CSL Insureds are excluded from the Settlement Agreement. Settlement Agreement, second Whereas clause.

5. Claimants have submitted proofs of claim in the Home liquidation seeking coverage for environmental property damage claims which, together with any other proofs of claim hereinbefore or hereinafter filed by a Claimants or any Claimants in the Home liquidation, are referred to collectively as the "Proofs of Claim". Settlement Agreement, fourth Whereas clause.

6. The Liquidator and the Claimants have negotiated the Settlement Agreement to resolve all matters concerning the Proofs of Claim and all Claimants' rights and obligations with respect to the Policies. Settlement Agreement, fifth Whereas clause. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 1.

7. The Settlement Agreement provides that the Liquidator will recommend allowance of the Proofs of Claim in the amount of \$6,554,841 (the "Recommended Amount") as a Class II priority claim under RSA 402-C:44. Settlement Agreement ¶ 2(A). Allowance of the Recommended Amount as a Class II claim will fully and finally resolve the Proofs of Claim and all claims Claimants 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).

8. The Settlement Agreement is intended to resolve the Proofs of Claim and all claims that Claimants have under the Policies. Settlement Agreement ¶ 2(B). To that end, the Settlement Agreement provides for mutual releases of all claims among the Liquidator, Home, and the Claimants arising from or related to the Proofs of Claim or the Policies. *Id.* ¶¶ 3, 4.

9. In resolving all of the Claimants' 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 Claimants ever had, now have, or hereafter may have in the Policies and the Proofs of Claim, including any asserted rights of third-party claimants against the Claimants under the Policies. Settlement Agreement ¶ 5. The Claimants agree to address, at their sole cost, any such claims of third-party claimants against the Claimants as if there had been no liquidation proceeding for Home and as if the Claimants had no insurance coverage from Home by virtue of the Policies. *Id.* The Claimants also agree to indemnify and hold the Liquidator and Home harmless from all claims arising from or relating to the Proof of Claim or the Policies with

respect to the Claimants (but not the Risk Management and CSL Insureds), including asserted rights of third party claimants, up to the total amount ultimately distributed in relation to the Recommended Amount. *Id.*

10. 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 Claimants will not harm the third party claimants, who will continue to have their claims against Claimants. As noted above, Claimants have agreed to address these claims as if they 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 Claimants 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, Claimants are responsible for any third party claimants' claims against them. *See* Settlement Agreement ¶ 5.

11. The Liquidator is not aware of any proofs of claim asserting a claim subject to the same policy limit as the Proofs of Claim resolved by the Settlement Agreement.<sup>1</sup> However, if a claim of another claimant is subject to the same limit of liability as 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. *See* Settlement Agreement ¶ 6.

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<sup>1</sup> There is, however, a contribution claim proof of claim filed by a co-insurer under one of the Policies that does not trigger Claimants' indemnity obligation.

12. The Settlement Agreement reflects a compromise of the claims asserted in the Proofs of Claim. It is the result of negotiations involving the Claims Department, under my supervision, which has extensive experience in assessing the exposure presented by claims under Home's insurance policies. The agreed settlement amount is based on careful evaluation and negotiation of coverage obligations under the Policies respecting the underlying liabilities of the Claimants. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$6,554,841 settlement amount as a Class II claim of the Claimants in accordance with RSA 402-C:45 and RSA 402-C:44.

13. 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 12 day of May 2022.

*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 May 12, 2022 before me, Alexander Ilao, 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 *Alexander Ilao*  
Signature of Notary Public

