

**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**

**LIQUIDATOR'S MOTION TO  
IMPOUND CONFIDENTIAL AFFIDAVIT  
REGARDING TUREGUM AND EXCESS**

Paula T. Rogers, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("The Home") hereby moves that the Court enter an order impounding the Confidential Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Reinsurance Commutation Agreements with Turegum and Excess and its attachments (the "Confidential Affidavit"). As reasons therefor, the Liquidator states as follows:

1. The Liquidator has filed a motion seeking an order approving the following agreements: (a) The Reinsurance Commutation Agreement, Settlement and Release with Turegum Insurance Company ("Turegum"), as amended by a Novation Agreement between The Home and Turegum executed June 20, 2003 (the "Turegum Agreement"), and (b) The Reinsurance Commutation Agreement, Settlement and Release with Excess Insurance Company Limited ("Excess") executed June 6, 2003 (the "Excess Agreement"). The motion is supported by the Confidential Affidavit.

2. The Liquidator requests that the Court provide confidential treatment for the Confidential Affidavit by ordering that the Confidential Affidavit (and its attachments) be impounded. The Confidential Affidavit contains the substantive

economic terms of the Turegum Agreement and the Excess Agreement and the analysis concerning the determination to enter into those agreements.

3. As set forth in the Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Motion to Impound Confidential Affidavit Regarding Turegum and Excess, filed herewith (the "Bengelsdorf Affidavit"), the release of the information in the Confidential Affidavit would harm the estate of The Home and be adverse to the interests of policyholders, claimants and other creditors in maximizing the assets to be collected for the estate. The Liquidator has been and likely will be negotiating commutation agreements with numbers of reinsurers. If the substantive terms of a particular commutation agreement or supporting analysis are disclosed, other reinsurers will be able to use that information in determining their own negotiating positions. Disclosure of amounts that the Liquidator is willing to accept from one reinsurer and the analysis supporting that conclusion is likely to set a ceiling on the amounts the Liquidator is able to obtain from other reinsurers. Commutation agreements between insurers often contain confidentiality provisions for this reason, and the Liquidator should not be placed in a worse position than ongoing insurers. Bengelsdorf Aff. ¶ 3.

4. The Liquidator has filed her motion for approval of the Turegum Agreement and the Excess Agreement. If any potential creditor of The Home estate (other than another reinsurer of The Home) wishes to review the impounded material, the Liquidator will provide it to that person upon its execution of a confidentiality agreement to limit the use of and prohibit disclosure of the material. This represents the least restrictive means to accomplish the necessary purpose of maintaining this material as confidential.

For the reasons stated, the Liquidator request that her motion be granted and that the Court enter an order impounding the Confidential Affidavit (and its exhibits). A proposed form of impoundment order is submitted herewith.

Respectfully submitted,

PAULA T. ROGERS, COMMISSIONER OF  
INSURANCE OF THE STATE OF NEW  
HAMPSHIRE, SOLELY IN HER CAPACITY AS  
LIQUIDATOR OF THE HOME INSURANCE  
COMPANY,

By her attorneys

PETER W. HEED, ATTORNEY GENERAL



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July 15, 2003

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

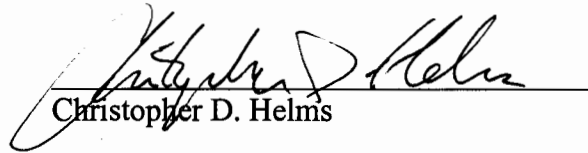
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**CERTIFICATE OF SERVICE**

I, Christopher D. Helms, do hereby certify that on this day I served a true copy of the foregoing, without the *Confidential Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator (Under Seal)* and the *Novation Agreement and Turegum Agreement (Under Seal)* and the *Excess Agreement (Under Seal)* attached thereto, upon the attached Service List, by first class mail, postage prepaid.

Dated: July 15, 2003

  
Christopher D. Helms

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