

**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 FOR APPROVAL OF  
REINSURANCE COMMUTATION AGREEMENT WITH INSCO**

Roger A. Sevigny, Commissioner of Insurance 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 Reinsurance Commutation Agreement, Settlement and Release (the "Commutation Agreement") between the Liquidator and Insko Limited ("Insko") and its subsidiary Britamco, Limited ("Britamco"). As reasons therefor, the Liquidator states as follows:

1. The present motion concerns the Commutation Agreement between the Liquidator and Insko and Britamco. A redacted copy of the Commutation Agreement (with economic terms removed) is attached hereto as Exhibit A. A complete copy of the Commutation Agreement is attached to the Confidential Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Approval of Reinsurance Commutation Agreement with Insko ("Bengelsdorf Confidential Affidavit") submitted herewith under seal. The Agreement is subject to approval by the Court. Commutation Agreement ¶ 1. Bengelsdorf Confidential Aff. ¶ 2.

2. As a part of its business, Home entered into reinsurance agreements with numerous reinsurers under which Home ceded and the reinsurers assumed a portion of Home's obligations under policies of insurance or reinsurance agreements written by Home. Collection of reinsurance is the principal asset marshalling task of the Home liquidation. Bengelsdorf Confidential Affidavit ¶ 3.

3. Insko is a Bermudan reinsurer, currently in runoff, which assumed business from Home on a treaty basis from the late 1970s to the mid 1980s. The ceded treaties cover property, marine, retrocessional and excess casualty business. In addition, Insko was the lead company and manager of the Britamco Pool, and it has assumed the entire pool obligations from the Pool's former members. The Britamco Pool assumed certain risks from Home under various catastrophe covers for the 1979 to 1982 years. Britamco is a subsidiary of Insko that was also a member of the Britamco Pool. Bengelsdorf Confidential Affidavit ¶ 4.

4. The Commutation Agreement provides for commutation of all of Home's ceded business to Insko or the Britamco Pool. The Commutation Agreement provides for the full and final settlement of all past, present and future rights, obligations and liabilities under the reinsurance agreements for a sum certain. Commutation Agreement ¶ 2. Bengelsdorf Confidential Affidavit ¶ 5.

5. The Commutation Agreement provides that Insko will pay the entire commutation sum through a wire transfer by Insko to Home within ten days of the effective date. Commutation Agreement ¶ 2. The other provisions of the Commutation Agreement, including mutual releases (Commutation Agreement ¶¶ 5-6), are set forth in the Commutation Agreement. Bengelsdorf Confidential Affidavit ¶ 6.

6. The Bengelsdorf Confidential Affidavit summarizes the reasons that support the determination to enter the Commutation Agreement. Bengelsdorf Confidential Affidavit ¶¶ 5-9. For the reasons set forth in the Bengelsdorf Confidential Affidavit, the Liquidator submits that the Commutation Agreement is fair and reasonable and in the best interests of the policyholders and creditors of Home. The Commutation Agreement will convert future reinsurance obligations into

immediate cash and avoid delay and uncertainty in collection of reinsurance. See Bengelsdorf Confidential Aff. ¶ 9.

7. The Commutation Agreement and certain supporting materials have been provided to members of the National Conference of Insurance Guaranty Funds' Reinsurance Commutation Subcommittee on The Home Insurance Company in Liquidation ("NCIGF Subcommittee"), who have entered confidentiality agreements. The NCIGF Subcommittee has advised the Liquidator that it has no objection to the Commutation Agreement. Bengelsdorf Confidential Affidavit ¶ 8.

WHEREFORE, the Liquidator respectfully requests that this Court:


- A. Grant this Motion for Approval of Reinsurance Commutation Agreement with  
Insko;
- B. Enter an Order in the form submitted herewith approving the Commutation  
Agreement; and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

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

By his attorneys,  
KELLY A. AYOTTE  
ATTORNEY GENERAL

J. Christopher Marshall  
Civil Bureau  
New Hampshire Department of Justice  
33 Capitol Street  
Concord, NH 03301-6397  
(603) 271-3650



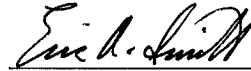
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J. David Leslie  
Eric A. Smith  
Rackemann, Sawyer & Brewster  
One Financial Center  
Boston, MA 02111  
(617) 542-2300

November 15, 2006

**Certificate of Service**

I hereby certify that a copy of the foregoing Liquidator's Motion for Approval of Reinsurance Commutation Agreement with Insko and the Proposed Order, but not the confidential affidavit, were sent, this 15th day of November, 2006, by first class mail, postage prepaid to all persons on the attached service list.



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Eric A. Smith

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of  
The Home Insurance Company  
Docket No. 03-E-0106

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**REINSURANCE COMMUTATION  
AGREEMENT, SETTLEMENT AND RELEASE**

**THIS REINSURANCE COMMUTATION AGREEMENT, SETTLEMENT AND RELEASE** (the "Agreement") is made and entered into by and between Roger A. Sevigny, New Hampshire Insurance Commissioner, solely in his capacity as Liquidator (the "Liquidator") of The Home Insurance Company ("Home"), Insko, Limited ("INSCO") and Britamco, Limited ("BRITAMCO").

**WITNESSETH:**

**WHEREAS**, Home and INSCO (collectively, the "Parties") entered into certain reinsurance agreements (the "Reinsurance Agreements") pursuant to which Home ceded to INSCO and BRITAMCO, and INSCO and BRITAMCO accepted from Home, a certain share of Home's liabilities as more fully reflected in the percentages of participation and periods for each respective Reinsurance Agreement; and

**WHEREAS**, INSCO has assumed all of BRITAMCO's rights and obligations under any Reinsurance Agreements that BRITAMCO entered into with Home; and

**WHEREAS**, in addition to their past and present obligations under the Reinsurance Agreements, Home, INSCO, and BRITAMCO recognize and understand that a portion of their respective obligations thereunder may become due in the future; that these future obligations and liabilities cannot be determined in an amount certain at this time; and that a commutation of these future and uncertain obligations and the Parties' past and present obligations will resolve all pending and outstanding issues between the Parties and will eliminate the uncertainty of contingent liabilities for presently unresolved and/or unasserted claims with respect to the Reinsurance Agreements;

**WHEREAS**, Home is currently the subject of an ongoing liquidation proceeding before the New Hampshire Superior Court, Merrimack County (the "Liquidation Court"), and which is



being undertaken pursuant to Chapter 402-C of the Revised Statutes Annotated of New Hampshire ("New Hampshire Law");

**WHEREAS**, the Parties agree that it is mutually in their best interests to fully and finally settle and commute their respective past, present and future rights, obligations and liabilities (whether known or unknown) under the Reinsurance Agreements and enter into mutual releases relating thereto, all in accordance with the terms and conditions hereinafter contained.

**NOW THEREFORE**, intending to be legally bound, in consideration of the promises, covenants, representations, warranties, payments, agreements and other good and valuable consideration recited and set forth herein, the sufficiency of which is mutually acknowledged, the Parties agree as follows:

1. This Agreement is conditioned upon and shall only become effective upon approval by the Liquidation Court (the "Effective Date"). In the event that the Liquidation Court does not approve this Agreement it shall be null and void and of no force and effect.

2. Within ten (10) days after the Effective Date, INSCO shall pay Home the sum of [REDACTED] (the "Settlement Sum") in full and final settlement, commutation and resolution of any and all past, present and future liabilities due or potentially due under the Reinsurance Agreements, whether known or unknown, fixed or contingent, liquidated or unliquidated, with time being of the essence in the performance by INSCO in effecting such payment. Payment of the Settlement Sum shall be effected by wire transfer as follows:

Citizens Bank, Manchester, NH  
ABA No., [REDACTED]  
For the Account of The Home Insurance Company in Liquidation  
Account No. [REDACTED]  
Attention: Efraim Abramsohn

The Settlement Sum shall be transferred free and clear of and without any deduction for or on account of any set-off or counterclaim.

3. Without prejudice to Home's right to terminate this Agreement under Paragraph 4 below, if INSCO fails to pay any portion of the Settlement Sum within ten (10) days after the

Effective Date, INSCO shall pay (a) interest on any unpaid amounts at the compounded rate of [REDACTED] per annum; and (b) any and all costs, including reasonable attorneys fees, incurred by Home in recovering the Settlement Sum in full (the "Collection Costs"). The acceptance by Home together with all interest and Collection Costs due in respect of late payment as determined and calculated as aforesaid shall (subject to the terms of this Agreement) constitute a full and final settlement and release with respect to INSCO as if payment of the Settlement Sum had been made in full within ten (10) days after the Effective Date.

4. Notwithstanding the provisions of Paragraph 3 above, in the event that INSCO fails to pay any portion of the Settlement Sum within thirty (30) days after the Effective Date (and notwithstanding any claim that may be asserted by Home for interest and Collection Costs) Home shall be entitled, at its sole discretion, by ten (10) days prior notice in writing to INSCO, to terminate this Agreement, in which event (a) this Agreement shall be null and void; (b) all of the rights and obligations of the parties with respect to the Reinsurance Agreements shall be fully reinstated as if this Agreement had never been made; and (c) INSCO shall be liable to pay any Collection Costs incurred by Home in pursuing the Settlement Sum.

5. Subject to the terms of this Agreement and conditional upon its approval by the Liquidation Court and receipt by Home of the Settlement Sum, the Liquidator, in his capacity as such and on behalf of Home, its officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, predecessors, successors and assigns, irrevocably and unconditionally releases and discharges INSCO and BRITAMCO, their officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, representatives, liquidators, receivers and rehabilitators and their respective predecessors, successors and assigns to the extent permitted by applicable law from any and all liabilities, adjustments, obligations, offsets, actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, premiums, returned premiums, unearned premiums, losses, salvage, commissions, variances, expenses, acts, omissions, executions, bonds, bills, covenants, contracts, controversies, agreements, promises, damages, judgments, claims and demands whatsoever, all whether known or unknown, suspected or unsuspected, fixed or contingent in law or in equity, which Home ever had, now has, or hereafter may have against INSCO and BRITAMCO by reason of any matter whatsoever arising out of or in connection with or in relation to the Reinsurance Agreements. Additionally, the Liquidator

fully understands and expressly waives Home's rights and benefits with respect to the Reinsurance Agreements under any provision of law which substantially provides that:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

6. Subject to the terms and conditions of this Agreement and in consideration of the release of INSCO and BRITAMCO pursuant to Paragraph 5 above, INSCO and BRITAMCO, on behalf of themselves, their officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, predecessors, successors and assigns, hereby irrevocably and unconditionally releases and discharges the Liquidator and Home, and their respective officers, directors, employees, agents, attorneys, affiliates, shareholders, parents representatives, liquidators, receivers and rehabilitators and their respective predecessors, successors and assigns to the extent permitted by applicable law from any and all liabilities, adjustments, obligations, offsets, actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, premiums, returned premiums, unearned premiums, losses, salvage, commissions, variances, expenses, acts, omissions, executions, bonds, bills, covenants, contracts, controversies, agreements, promises, damages, judgments, claims and demands whatsoever, all whether known or unknown, suspected or unsuspected, fixed or contingent in law or in equity, which INSCO and BRITAMCO ever had, now have, or hereafter may have against the Liquidator or Home by reason of any matter whatsoever arising out of or in connection with or in relation to the Reinsurance Agreements. Additionally, INSCO and BRITAMCO fully understand and expressly waives their rights and benefits with respect to the Reinsurance Agreements under any provision of law which substantially provides that:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

7. This Agreement shall, subject to its approval by the Liquidation Court, be binding upon and shall inure to the benefit of the Parties. The Parties each represent and warrant that

they have not prior hereto assigned or otherwise transferred to any other entity any of the rights, entitlements or interests in or to the reinsurance agreements commuted and released hereunder.

8. This Agreement shall be governed by and construed according to the laws of the State of New Hampshire (without giving effect to conflict of law principles) and the Parties agree to submit to the jurisdiction of the Liquidation Court.

9. This Agreement embodies the final, complete and entire agreement between the Parties and is the product of their own independent legal advice and analysis. No other representations, understandings or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth or referred to herein.

10. If any provision of this Agreement is invalid, unenforceable or illegal under the law of any jurisdiction, such provision shall be deemed severable from the balance of this Agreement, and the validity and enforceability of the remaining provisions of this Agreement, and the validity and enforceability of such provision in any other jurisdiction shall not be affected thereby. In the event of such invalidity, enforceability or illegality, the Parties shall negotiate in good faith to amend this Agreement through the insertion of additional provisions which are valid, enforceable and legal and which reflect, to the extent possible, the economic and other purposes contained in the invalid, unenforceable or illegal provision.

11. Subject to approval by the Liquidation Court, the Parties hereby agree that this Agreement shall take precedence over and supersede the Reinsurance Agreements and that notwithstanding anything to the contrary contained therein, this Agreement shall operate as a full and final settlement, commutation and release of the respective rights, obligations and liabilities of the Parties under the Reinsurance Agreements. In addition, the Parties and their respective successors and assigns absolutely and unconditionally covenant and agree that upon consummation and satisfaction of the transactions contemplated by this Agreement, neither will demand, claim or file suit or initiate arbitration proceedings against the other with respect to any matters relating to or arising out of the Reinsurance Agreements.

12. The failure of any party hereto to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of such provisions, nor in any way to

affect the validity of this Agreement, or any part hereof, or the rights of such party to thereafter enforce each and every such provision.

13. The Parties, without further consideration, agree to execute and deliver such other documents and take such other action as may be necessary to effect and implement this Agreement.

14. The Parties agree and acknowledge that this Agreement is being entered into solely as a commercial accommodation, without regard to the respective positions of the Parties regarding their rights and obligations under and in terms of the Reinsurance Agreements. As such, the Parties agree that this Agreement shall never at any time for any purpose be considered as an admission of liability or responsibility on the part of any party hereto regarding any aspect of the Reinsurance Agreements, other than with respect to the terms and conditions herein contained.

15. (a) INSCO and BRITAMCO represent and warrant that they are legally constituted entities in good standing; that they are not insolvent; that they are duly authorized to enter into this Agreement and the transactions contemplated herein; that the person signing this Agreement is fully authorized to execute this Agreement on their behalf; that all requisite and necessary approvals have been obtained to consummate the transactions contemplated by this Agreement; that no other agreement, undertaking, contract or matter is known to exist that might render this Agreement void, voidable or unenforceable; and that they have read this Agreement, that they understand its contents and that it is being executed freely and voluntarily with an intent for them to be bound by its terms; and (b) the Liquidator represents and warrants that, subject to the Liquidation Court's approval, he is duly authorized to enter into this Agreement and the transactions contemplated herein; that no other agreement, undertaking, contract or matter is known to exist that might render this Agreement void, voidable or unenforceable; that he has read this Agreement, understands its contents, and that the person signing this Agreement is fully authorized to execute this Agreement freely and voluntarily on his behalf with an intent for Home to be bound by its terms.

16. The Parties acknowledge that they have entered into this Agreement in reliance on their own independent investigation and analysis of the matters forming the subject of this

Agreement and their rights and obligations with respect thereto, and not on the basis of any representation by any other party hereto except those representations contained in this Agreement.

17. This Agreement shall inure to the benefit of and bind the Parties and their respective predecessors, parents, affiliates, subsidiaries, successors and assigns (including their rehabilitators, liquidators or other statutory successors) to the maximum extent permitted by applicable law.

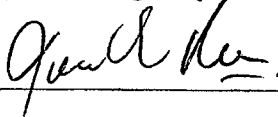
18. No supplement, amendment, variation, modification, waiver or termination of this Agreement shall be effective unless in writing and signed by the Parties.

19. It is hereby agreed that the Parties, including but not limited to their attorneys, agents, representatives and affiliates, will not disclose the terms of this Agreement to anyone other than is necessary to effectuate the terms of this Agreement; except that the Parties may disclose the terms of this Agreement to and through their attorneys, accountants, reinsurers, retrocessionaires and auditors for a legitimate business purpose where a specific need for such disclosure arises in the judgment of such attorneys, accountants, reinsurer and auditors, or in response to lawful process. Notwithstanding the foregoing, nothing in this provision shall restrict the ability of the Parties to disclose the terms of this Agreement to regulatory entities or in connection with reports and statements that they may be required from time to time to file or submit to government agencies, or in support of a motion for approval by the Liquidation Court.

20. The Parties represent and agree that the consideration for this Agreement, provided in exchange for the Parties' mutual promises made herein, is fair and reasonable. The Parties further agree to provide each other with an appropriate affidavit to this effect if such an affidavit becomes necessary to uphold or enforce the legitimacy of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective authorized officers.

Roger A. Sevigny, New Hampshire Commissioner of Insurance,  
solely in his capacity as Liquidator of The Home Insurance Company

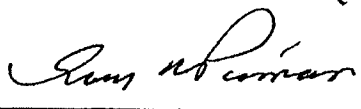
By: 

Date: November 6, 2006

Name: Jonathan Rosen

Title: Chief Operating Officer

**INSCO, LIMITED**

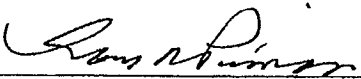
By: 

Date: 6 NOV 2006

Name: GARY R. PITMAN

Title: PRESIDENT

**BRITAMCO, LIMITED**

By: 

Date: 6 NOV 2006

Name: GARY R. PITMAN

Title: PRESIDENT