

**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 2007 COMPENSATION  
PLAN FOR THE SPECIAL DEPUTY LIQUIDATOR**

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 approving the 2007 compensation plan for Peter A. Bengelsdorf, the Special Deputy Liquidator of Home (the "Special Deputy Liquidator") as described in Ernst & Young LLP's ("E&Y") November 9, 2006 letter attached hereto as Exhibit A. The 2007 compensation plan consists of an incentive/retention program as well as payments for services rendered on an hourly basis pursuant to the 2003 consulting agreement described herein (collectively, the "Plan"). The Plan is intended to reward the Special Deputy Liquidator's performance and reinforce retention of his services in order to facilitate the successful, efficient and prompt completion of the liquidation process. The Plan has been reviewed with the National Conference of Insurance Guaranty Fund's Subcommittee on Home which has indicated its non-objection to this Motion. In support hereof, the Liquidator respectfully represents as follows:

1. Shortly after the liquidation proceeding began in June 2003, the Liquidator recruited the Special Deputy Liquidator from private industry and appointed him to manage the operations of the liquidation.<sup>1</sup> The Special Deputy Liquidator is a consultant to the

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<sup>1</sup> The Special Deputy Liquidator also served as Home's Special Deputy Rehabilitator prior to liquidation.

Liquidator, not an employee of Home. The terms of his engagement are described in a June 11, 2003 Consulting Agreement which was approved by the Court on June 30, 2003 (the "Consulting Agreement"). The Consulting Agreement remains in effect until terminated. According to the Consulting Agreement, the Special Deputy Liquidator will be paid at an hourly rate of \$250. (The Special Deputy Liquidator's hourly rate has not changed since his engagement began in 2003.) He does not participate in the incentive compensation plans for employees of Home, nor does he receive any health and welfare, retirement or severance benefits from Home. As an independent contractor, he pays the full Social Security tax (employer and employee share) on his compensation. The Special Deputy Liquidator has been eligible to receive an annual incentive award of \$400,000 during 2004 and 2005 and \$300,000 during 2006, and annual "Stay Pay" of \$400,000 during each such year. Affidavit of Roger A. Sevigny, Liquidator, in Support of Approval of Compensation Plan For The Special Deputy Liquidator ("Sevigny Aff.") ¶ 4.

2. The Special Deputy Liquidator is the top executive of Home, who reports directly to the Liquidator. As described in the advisory letter from E&Y's Human Capital Practice attached as Exhibit A and discussed in more detail below, E&Y reviewed the scope and duties of the Special Deputy Liquidator position and, based on its experience in working with other companies in liquidation and distressed situations as well as "healthy" companies, identified comparable positions against which to evaluate market competitiveness of the 2007 Plan. A well-qualified and competent Special Deputy Liquidator will materially contribute to the efficient collection of assets as well as the orderly administration and expedited closure of the estate. The present Special Deputy Liquidator has demonstrated his abilities by facilitating the increase in Home's cash and liquid invested assets from \$12.7 million on March 5, 2003 to approximately \$890 million at December 31, 2006. Most of this increase is

attributable to a combination of reinsurance recoveries and other financial settlements either negotiated by the Special Deputy Liquidator or by Home's staff under his direction.

Maximizing the prompt collection of assets is one of the principal statutory goals of the liquidation. RSA 402-C:25 (VI). The Liquidator believes that this objective can be facilitated through retention of the Special Deputy Liquidator. *Sevigny Aff.* ¶¶ 5, 6.

3. The Liquidator retained E&Y, a nationally recognized compensation consultant with experience in the design of compensation plans for large insurers in liquidation, like Home, to evaluate present and proposed 2007 compensation. As described above, E&Y has conducted an evaluation of the competitiveness of the Special Deputy Liquidator's compensation. E&Y examined the competitiveness of the Special Deputy Liquidator's current compensation in comparison to other comparable positions. Based upon E&Y's experience, a competitive compensation level is one that approximates 85%-115% of the targeted market level (typically a range between the 50<sup>th</sup> and 75<sup>th</sup> percentile). E&Y found that the Special Deputy Liquidator's proposed 2007 total direct compensation (or TDC, defined as base salary plus annual and long-term incentives) after adjustment for the absence of benefits is below the market median (50<sup>th</sup> percentile) and less competitive than the total direct compensation for Home's other top executives, which is between the 50<sup>th</sup> and 75<sup>th</sup> percentiles. *Sevigny Aff.* ¶ 6.

4. The 2007 Plan for the Special Deputy Liquidator is described in the E&Y letter and has four primary objectives. First, the Plan recognizes the Special Deputy Liquidator's role as top executive of the Home liquidation operation. Although an independent contractor, the Special Deputy Liquidator works at least the hours of a full-time employee and, because he is responsible for Home's day-to-day operations, he has more responsibility than any other employee of Home. Second, the Plan acknowledges the Special Deputy Liquidator's

significant accomplishments to date, as evidenced by the large increase in Home's cash and liquid invested assets and the resolution of numerous business issues as described in the Liquidator's quarterly reports. Third, the Plan aligns the Special Deputy Liquidator's incentives with those of Home's creditors and the Liquidator's goals for Home. Specifically, the Special Deputy Liquidator must marshal assets of Home; hire and maintain Home's staff; prepare and file timely and accurate reports for the Liquidator (and ultimately with the Court); and operate Home in a cost-effective manner. Fourth, the Plan provides the Special Deputy Liquidator with compensation consistent with competitive market positioning in relation to Home's current executive team. *Seigny Aff.* ¶ 7.

5. The Plan consists of three components. First, the Special Deputy Liquidator's present base compensation will remain at its 2003 level -- \$250 per hour. Second, the Plan provides an annual incentive bonus structure ("AI"). As with the AI component of the Special Deputy Liquidator's 2004, 2005 and 2006 compensation plans, the Liquidator will set annual goals for the Special Deputy Liquidator (*e.g.*, success in marshalling assets, organization performance within budget, implementation of an effective claim determination operation, extent of early access distributions, obtaining an appropriate independent auditor opinion, timely and accurate reporting to the Liquidator and the Court throughout the performance year). After the end of the year, the Liquidator will evaluate the Special Deputy Liquidator's performance with respect to each of those goals and determine the AI bonus based upon those accomplishments. The 2007 AI provides the Special Deputy Liquidator with an opportunity to earn an AI bonus of \$300,000 (down from \$400,000 in 2005, but the same as 2006). E&Y determined that this target dollar amount falls between the amounts available to other Home executives under their 2007 incentive compensation plan. Third, a "Stay Bonus" covering a twelve month period from January 1, 2007 through December 31, 2007 of \$400,000 is

payable on January 1, 2008. The 2006 "Stay Bonus" was also \$400,000.<sup>2</sup> The "Stay Bonus" provides a cash incentive to this senior and experienced insurance industry executive and encourages him to remain with Home. Assuming the Special Deputy Liquidator stays until January 1, 2008 and achieves all the AI goals, the estimated 2007 cost for the incentive/retention portions of the Plan would be \$700,000. Estimated 2007 payments to the Special Deputy Liquidator under the Consulting Agreement are an additional \$500,000. This is approximately \$50,000 less than the amount paid for 2006 and anticipated in the E&Y advisory letter. (At the request of the Insurance Commissioner, for the past several months Mr. Bengelsdorf has been actively involved as the special deputy rehabilitator of another New Hampshire insurer. He is being compensated at the same hourly rate for that matter. Due to his time spent on that matter, his 2007 compensation pursuant to the Consulting Agreement is therefore projected to be approximately \$50,000 less than in 2006.) Seigny Aff. ¶ 8.

6. The Liquidator's consultants, E&Y, advise that the proposed Plan 2007 compensation provides for market competitive compensation in insurance company liquidations that is properly weighted toward variable or performance-based compensation, and encourages a continuation of the existing working relationship. Seigny Aff. ¶ 9.

7. The Liquidator has authority under RSA 402-C: 25(I) and paragraph t of the Liquidation Order entered June 13, 2003, to appoint a special deputy and determine his compensation "subject to the court's control." The Liquidator also has authority pursuant to RSA 402-C: 25(IV) to use the property of Home to defray the costs of collecting its assets and liquidating its property and business.

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<sup>2</sup> In the event of death or disability both the AI bonus and the Stay Bonus are paid in full. In the event the Special Deputy Liquidator is terminated without cause, such bonuses will be pro-rated.

8. For the reasons described above and in the Sevigny Affidavit, the Liquidator submits that the Plan is fair and reasonable and in the best interests of the liquidation and of the policyholders and other creditors of Home.

WHEREFORE, the Liquidator requests that the Court enter an order in the form submitted herewith approving the Plan and grant such other and further relief as may be just.

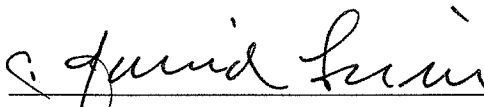
Respectfully submitted,

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

By his attorneys,

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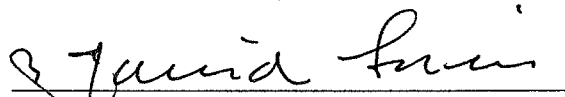


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February 6, 2007

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Motion for Approval of 2007 Compensation Plan for the Special Deputy Liquidator, the Affidavit of Roger A. Sevigny, Liquidator, and the proposed form of order were sent, this 6th day of February, 2007, by first class mail, postage prepaid to all persons on the attached service list.

  
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J. David Leslie

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

In the Matter of the Liquidation of  
US International Reinsurance Company  
Docket No. 03-E-0112

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November 9, 2006

**PRIVATE AND CONFIDENTIAL**

Mr. Roger Seigny

In his capacity as Liquidator of the Home Insurance Company in Liquidation  
State of New Hampshire Insurance Department  
21 South Fruit Street, Suite 14  
Concord NH 03301-7317

Dear Commissioner Seigny:

As a part of our engagement with Home Insurance Company in Liquidation (Home or the Company), Ernst & Young LLP's (E&Y) Performance & Reward Practice has been asked to review the competitiveness of Home's current compensation levels to typical market levels and provide a letter summarizing our findings. As a part of this engagement, E&Y advised the Liquidator that it would be appropriate to also review the Special Deputy Liquidator's (Peter Bengelsdorf's) existing compensation arrangements relative to typical market levels. The purpose of this letter is to identify the competitiveness of the Special Deputy Liquidator's current and proposed compensation levels to comparative market levels using the same methodology employed for our review of Home's 26 benchmarked positions (detailed under separate cover).

Similar to the analysis conducted for Home's Top Executives, companies in liquidation typically focus on "healthy company" pay levels to determine appropriate market compensation levels for their Special Deputy Liquidators because companies in liquidation will be competing with healthy companies to retain their liquidation employees.

**BACKGROUND**

Beginning in the fall of 2003, Ernst & Young developed three incentive compensation programs for the current executives and employees of Home specifically designed to meet the needs of the liquidation operations. These plans, the Retention Incentive Plan (RIP), the Annual Incentive Plan (AIP), and the Collection Incentive Plan (CIP) were approved by the State of New Hampshire Superior Court on April 21, 2004 (please see Docket No. 03-E-0106). In addition, the management of the Home agreed to submit the incentive and retention plans for annual approval by the court. The Special Deputy Liquidator position does not participate in these incentive plans. The Liquidator is the administrator of the incentive and retention plans (now the AIP and CIP plans, only) and the Special Deputy Liquidator, by delegation, is responsible for monitoring the operation of the two plans. As such, it is appropriate for the Special Deputy Liquidator's compensation to be independent of these plans.

The Special Deputy Liquidator is the top executive of Home serving as an independent contractor to the State of New Hampshire and reporting directly to the Insurance Commissioner. We have reviewed the scope and duties of the Special Deputy Liquidator position and, based on our

experience in working with other companies in liquidation and distressed situations as well as "healthy" companies, identified comparable positions against which to develop a market competitive compensation program for the Special Deputy Liquidator position.

The Special Deputy Liquidator presently has a 1 year contract which expires on December 31, 2006. The current compensation arrangement for the Special Deputy Liquidator consists of a base salary of \$550,000, a performance bonus of \$300,000 and a "stay" bonus of \$400,000. In contemplation of a one-year annually renewable contract being established for the Special Deputy Liquidator for fiscal 2007, the summary below includes an assessment of the competitiveness of Mr. Bengelsdorf's current compensation as well as his proposed compensation levels for 2007.

**Compensation Program Objectives**

Previously, Ernst & Young developed an overall compensation framework for the Special Deputy Liquidator based on four (4) primary objectives:

1. Recognize Mr. Bengelsdorf's role as the top executive of Home;
  - Preserve the position's contractor status but recognize that, in terms of time spent, Mr. Bengelsdorf is more than a full-time employee and is filling the role of the top executive;
2. Acknowledge significant contributions that have already occurred;
  - Acknowledge the significant amount of value that had already been contributed to the liquidation process by the Special Deputy Liquidator with liquid assets (including early access payments) at March 5, 2003 of \$12.7 million to approximately \$872 million (including early access payments of approx. \$95 million) as of September 30, 2006.
3. Align incentives with the Liquidation's goals; and
  - Provide Mr. Bengelsdorf with a structured incentive plan of performance objectives that aligns his objectives with Home's creditors.
  - Mr. Bengelsdorf's primary responsibilities are to: (1) effectively marshal assets of the estate, (2) hire and maintain an adequate staff, (3) file timely and appropriate reports on the Liquidation's status and (4) operate the Liquidation in a cost effective manner;
4. Use available comparable market compensation data.
  - Develop competitive market data consistent with Published Survey Analysis and Proxy Analysis;
  - Remain consistent with competitive market positioning in relation to the current executive team.

**Compensation Components (Please See Exhibit D)**

The current and proposed total direct compensation (TDC) for the Special Deputy Liquidator position consists of three (3) components:

**1. Base Compensation:**

- **Current Base Compensation Level:** Mr. Bengelsdorf's estimated 2006 compensation based on a rate of \$250 per hour is approximately \$550,000
- **Proposed Base Compensation Level:** The rate per hour will be unchanged from the current arrangement as Mr. Benglesdorf has estimated that his annualized base salary

will approximate \$550,000 (assuming an estimated 2,200 hours billed). During the period November 2005 and October 2006 Mr. Bengelsdorf billed 2,160 hours but worked 2,478 hours.

- **Please Note:** In order to present base compensation in the same manner as other Home employees and to develop an apples-to-apples comparison with market data, we have adjusted the base compensation to reflect the fact that Mr. Bengelsdorf does not receive employee benefits from Home.
  - Specifically, the estimated 2006 compensation level of \$550,000 and the proposed base compensation level of \$550,000 have been reduced by 25% to adjust for the typical benefits offered to a CEO position.
  - This adjustment results in current base compensation of \$440,000 (or \$550,000/1.25) and a proposed base compensation level of \$440,000 (or \$550,000/1.25)

## **2. Performance Bonus or Annual Incentive ("AI") Bonus Structure**

The current and proposed Performance Bonus is established and determined by the Liquidator in accordance with the process described below.

- Annually, at the outset of the plan cycle, the Liquidator sets the annual goals for this plan (e.g. success in marshalling assets, organization performance within budget, implementation of an effective claim determination operation, extent of early access distributions, obtaining an appropriate independent auditor opinion, timely and accurate reporting to the Liquidator and the Court throughout the performance year).
- After the end of the plan cycle, the Liquidator evaluates Mr. Bengelsdorf's performance with respect to each of those goals and determines the AI bonus based upon those accomplishments.
- **Current Performance Bonus "AI" Target Level:** Last year, Mr. Bengelsdorf asked to lower his targeted performance bonus amount from a target dollar amount of \$400,000 to an amount of \$300,000 which is where it currently stands.
- **Proposed Performance Bonus "AI" Target Level:** No change is being proposed from the \$300,000 target bonus.
- The \$300,000 target Performance Bonus opportunity falls between the amounts available to other Home executives.
- Any AI Bonus will be pro-rated in the event Mr. Bengelsdorf is terminated without cause. In the event of death or disability, such amount will be paid in full.

## **3. "Stay" Bonus**

- **Current Stay Bonus Compensation Level:** Mr. Bengelsdorf's current "Stay" Bonus opportunity is \$400,000 (covering the twelve month period from January 1, 2006 to December 31, 2006) payable January 1, 2007.
- **Proposed Stay Bonus Compensation Level:** Unchanged from the current arrangement with the proposed "Stay" Bonus opportunity at \$400,000 (covering the twelve month period from January 1, 2007 to December 31, 2007) payable January 1, 2008.

- Such "Stay" Bonus will be pro-rated in the event Mr. Bengelsdorf is terminated without cause. In the event of death or disability, such amount will be paid in full.

#### **FINDINGS – COMPETITIVENESS OF COMPENSATION TO MARKET LEVELS**

Among healthy companies, TDC typically reflects an incumbent's base salary plus annual and long-term incentives. For the purposes of assessing the competitiveness of Mr. Bengelsdorf's TDC to market, TDC for Mr. Bengelsdorf reflects base salary plus annual and retention incentives. Compensation theory and our experience indicate that a competitive compensation level is one that approximates 85% - 115% of targeted market levels (typically 50<sup>th</sup> percentile, to 75<sup>th</sup> percentile).

Mr. Bengelsdorf's proposed TDC (unchanged from the previous year) after reducing the estimated base salary by 25% to adjust for the absence of the employee benefits currently provided to Home employees, is at the slightly below the competitive range (or 84.3%) of median market levels and is significantly less than competitive (or 61.7%) of 75<sup>th</sup> percentile market levels. (Please see Exhibit I for additional details).

#### **Current / Proposed Compensation**

Compensation Component	2006 Compensation (Proposed 2007 Compensation)	Competitive Market		Overall Competitiveness	
		Median	75th %ile	Median	75th %ile
Base Salary Adjusted	\$440.0	\$553.1	\$705.0	79.6%	62.4%
Performance Incentive	\$300.0	\$383.3	\$573.9	78.3%	52.3%
Retention Award	\$400.0	\$0.0	\$0.0	—	—
Total Cash Compensation	\$1,140.0	\$936.4	\$1,278.9	121.7%	89.1%
Long-Term Incentive (Equity)	\$0.0	\$415.3	\$568.7	—	—
Total Direct Compensation	\$1,140.0	\$1,351.7	\$1,847.7	84.3%	61.7%

**\*\* Please note that a competitive compensation level is defined as one which falls within an 85% to 115% range of the indicated market consensus level.**

#### **SUMMARY CONCLUSIONS**

Overall, the proposed total direct compensation for the Special Deputy Liquidator represents a program that is weighted toward variable or performance-based compensation while also encouraging a continuation of the existing relationship. The proposed TDC (base compensation plus Performance Bonus and "Stay" Bonus) for the Special Deputy Liquidator, if performance objectives are achieved, will be approximately \$1.14 million (note, The Special Deputy Liquidator receives no benefits from the Home). This amount is below the market median (50<sup>th</sup> percentile) TDC level. This positioning is less competitive than the total direct compensation for Home's other top executives, which is between the 50<sup>th</sup> and 75<sup>th</sup> percentiles.

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Mr. Roger Sevigny

November 9, 2006

We sincerely appreciate the opportunity to continue to provide human resource advisory assistance to Home Insurance Company in Liquidation on this engagement. Please do not hesitate to call Martha Cook at 404.817.5734 if you have any questions.

Very truly yours,

*Ernst & Young LLP*

Copy to: Bill Kane; Ernst & Young, Philadelphia  
Martha Cook; Ernst & Young, Atlanta  
Katie Vizas; Ernst & Young, Atlanta