

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Docket No. 03 – E-0106

**In the Matter of the Liquidation of
The Home Insurance Company**

Docket No. 03-E-0112

**In the Matter of the Liquidation of
US International Reinsurance Company**

**LIQUIDATOR'S THIRD MOTION FOR APPROVAL
OF DISPOSAL OF CERTAIN RECORDS**

Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home") and U.S. International Reinsurance Company ("USI Re") (collectively, the "Companies"), hereby moves that the Court enter an order pursuant to RSA 402-C:50 approving the disposal of (i) certain categories of records of the Companies that are no longer useful, and (ii) records in several categories previously authorized for destruction in earlier orders but dating from later periods. As reasons therefore, the Liquidator states as follows:

1. As set forth in the Liquidator's first Motion for Approval of Disposal of Certain Records filed November 24, 2004 ("First Motion"), and the Liquidator's Second Motion for Approval of Disposal of Certain Records filed July 15, 2005 ("Second Motion"), Home and USI Re stopped the disposal of records under their record retention policy in 1995. The Companies have generally not conducted new or renewal business since 1995, and they have been in liquidation since June 2003. As a result of these circumstances, the Companies have numerous documents that are no longer needed, and the estates continue to incur significant expense to

store the documents. Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Approval of Disposal of Certain Records (“Bengelsdorf Aff.”) ¶ 2.

2. The Court authorized disposal of certain categories of records in response to the First Motion and Second Motion by Orders Approving the Disposal of Certain Records entered on December 16, 2004 (“First Order”) and August 12, 2005 (“Second Order”). Pursuant to these orders, liquidation staff has disposed of approximately 10,000 boxes of documents. Nonetheless, over 160,000 boxes remain in storage at the Home’s offices and with off-site vendors. The annual cost of maintaining the records with off-site vendors alone is approximately \$560,000, and disposal of even part of the boxes in off-site storage would result in significant savings. Liquidation staff has accordingly sought to identify for disposal additional categories of records which are no longer useful. Bengelsdorf Aff. ¶ 3.

3. The New Hampshire Insurers Rehabilitation and Liquidation Act provides in RSA 402-C:50 that: “Whenever it appears to the commissioner the records of any insurer in process of liquidation or completely liquidated are no longer useful, he or she may recommend to the court what records should be retained for future reference and what should be disposed of. The court shall enter an order thereon. Until further order of the court, the commissioner shall keep all records the court orders preserved and shall destroy the remainder whether or not the records have been photographed or otherwise reproduced.”

4. Categories of documents that are no longer useful. Based on the review by liquidation staff, the Liquidator has determined that the following categories of files being stored by the Companies are no longer useful. The Liquidator will retain files in these categories if they are involved in a pending dispute or concern a proof of claim. Bengelsdorf Aff. ¶ 4.

- a. Aviation business records dated prior to March 2003 including closed claim files. These records pertain to Home's aviation insurance business and include policy files, closed claim files, underwriting information and billing invoices. The files include policy declaration pages and endorsements, claim files containing first report of claims, correspondence, copies of claim payments, settlement agreements and other legal documents; underwriting information such as insurance quotes, financial reports, and loss history. Home withdrew from the aviation market in 1994, and this line of business typically involves claims made during or shortly after the policy period.
- b. Closed claim files with no activity for 20 years for environmental, mass tort and workers' compensation claims or for 10 years for other types of claims. These records consist of claim files that have been closed and have had no activity for a significant number of years. The files contain documents relating to Home claim professionals' and/or Home third-party claim administrators' handling of claim submissions such as first reports of claims, correspondence, invoice and payment histories, file documentation notes, policy and endorsement information, notices and decisions from bureaus and tribunals, medical and other investigative reports, recovery-related information, complaints and other pleadings, discovery material, attorney-client communications and closing documents.
- c. Corporate risk management records dated prior to 1995. These files consist of documentation relating to the risk management program of Home and its affiliates. These records include closed files relating to claims made on policies of insurance

covering Home and its affiliates, copies of insurance policies, bonds and other evidence of insurance coverage, related documentation and correspondence.

- d. Facilities management and real estate records for formerly leased or owned properties dated prior to March 2003. These files contain facilities management records of Home and its affiliates pertaining to real and personal property formerly leased or owned by the companies in connection with their business operations, including files relating to real estate purchases, sales, leases and car leases, as well as documents relating to employee relocation arrangements.
- e. Management and loan records for Home's former mortgage loan portfolio dated prior to March 2003. These records include files pertaining to the management of Home's former mortgage loan portfolio, including mortgage agreements, loan agreements, appraisals, and property surveys.
- f. Financial reporting records prior to 1990 other than filed statements. These records include work papers, schedules and reports and related correspondence concerning the annual statements and other financial reports for Home and its affiliates, audit reports prepared by independent auditors or reinsurance companies and copies of payments to state funds for voluntary and involuntary insurance plans and related correspondence. Copies of filed statements will be retained.
- g. General Counsel's Office files dated prior to March 2003. These files contain material relating to legal matters regarding the operations of Home and its affiliates including general corporate advice, transactions, mergers and acquisitions, securities, general insurance and reinsurance, regulatory, market conduct examinations, state filing, litigation, employment law and benefits, contracts, government and industry

affairs, rating agencies, legal collections, real estate, election law, bankruptcy, producer and agency relations, intellectual property, information technology, accounting, finance, tax and investments, subpoenas, corporate secretarial governance records and related documents. The files also include correspondence files, subject files, and files relating to the Department's administrative matters such as budgets, management reports, personnel, legal and vendor invoices, publications, purchasing, and data processing reports.

- h. Human resources, corporate security and employee relations records dated prior to March 2003 and held beyond any statutorily required retention period. These records consist of files of Home and its affiliates which have been retained beyond any statutorily required retention period pertaining to non-vested employees terminated prior to March 2003, files pertaining to deceased Home pension participants who retired prior to March 2003, files relating to general corporate security matters including case files relating to internal investigations, and files containing general employee relations records.
- i. Consumer complaints records dated prior to March 2003. These records consist of files relating to consumer complaints.
- j. Information technology system documentation for no longer used systems or programs. These records contain hardcopy documentation for systems and programs that are no longer in operation, supported or required by Home or USI Re. These records include retired program documentation, duplicate program documentation, data control documentation, Y2K testing documentation, system management reports and hardware inventory.

- k. Claim investigation records dated prior to March 2003. These files contain documentation with respect to the work performed by investigators employed by Home to investigate claim submissions including records relating to surveillance, service of process, witness interviews, and general investigation. This documentation is often duplicative in nature of materials contained in the full claims file.
- l. Investment records for former investments dated prior to March 2003. These files contain the records of Home and its affiliates relating to investments that they no longer hold, including trade confirmations of purchases and sales of securities and applicable journal entries, asset books, bond listings, investment reports and related correspondence and subject files.
- m. Stock records dated prior to March 2003. These files contain the records of Home and its affiliates relating to securities issued by the various companies, including copies of surrendered and redeemed common and preferred stock certificates issued in the name of Home and/or its affiliates, listings of stocks issued and re-deemed, asset books, bond listings, investment reports and related correspondence and subject files.
- n. Records of City Insurance Co. - UK Branch dated prior to March 2003 consisting of third party administrator ("TPA") system control reports, duplicate regulatory reports, closed arbitration and commutation files, duplicate internal reporting documents, closed reinsurance collections files, correspondence regarding closed claims, and internal TPA communications. City Insurance Company UK Branch ("City UK") was a London-based branch of City Insurance Company, a subsidiary of

Home that was merged into Home in 1995. In 2006, the Liquidator assumed management of City UK from its TPA in London, and the City UK records were sent to Home in New York. Liquidation staff has completed a review of the files and determined that the following records are no longer needed: the TPA's system control reports; duplicate copies of regulatory reports filed with insurance regulators in the United Kingdom; reinsurance arbitration and commutation files that were closed prior to liquidation; duplicate copies of internal reporting documents; closed reinsurance collections files; correspondence between City UK and London market reinsurers concerning claims that were resolved and closed prior to liquidation; and internal communications of City UK's TPA. The Joint Provisional Liquidators appointed for Home by the English High Court of Justice have confirmed that they do not object to the disposal of these records.

- o. Reinsurance Department files dated prior to March 2003 other than contract files. These files contain material regarding the reinsurance operations of the Companies, including reinsurance accounting, closed claims, collections and legal matters, data processing reports, accounting trial balance reports, regulatory reports, including Schedule F balances, cash collection files, accounting records in connection with insured bankruptcies, general accounting records, and legal files maintained in connection with reinsurance arbitrations that are closed. Files regarding reinsurance contracts themselves will be retained.
- p. Commercial lines rate, rule, form and statistical regulatory filings dated prior to 1997. These records consist of submissions made by Home and its affiliates relating to rates, rules, forms or statistical information for commercial lines business filed

with state regulatory authorities in 1996 or prior years. State regulatory authorities include state insurance departments, rating bureaus, National Council of Compensation Insurers, Insurance Services Office, and the Surety Association of America. Commercial lines of business include boiler and machinery, commercial auto, commercial multi-peril, commercial property, directors and officers liability, excess casualty, general liability, liquor liability, ocean marine, petro chemical, professional liability, umbrella and excess umbrella, and workers compensation.

- q. Tax, assessment and surcharge reporting records dated prior to March 2003 and held beyond any statutorily required retention period. These records consist of files which have been retained beyond any statutorily required retention period consisting of, federal, state and local income tax returns, amended returns, premium tax returns, federal excise tax forms, work papers and schedules, revenue agents request forms, sales tax returns and related work papers, accounting forms, copies of disbursements for taxes and related correspondence for Home and its affiliates. Also included are reports and payments for assessments to guaranty funds and boards and bureaus, as well as reports and filings for surcharges.
- r. Underwriting and underwriting related records dated prior to March 2003 other than policy files. These records include files concerning binders issued for temporary insurance coverage, certificates of insurance issued for policyholders in order to provide proof of insurance to third parties, declaration pages with pre-printed policy numbers that were not used due to errors made when preparing the policy, "spoiled policies" and microfiche that shows the experience modification factor for individual insureds, which is duplicative of information contained in the policy file. The

records also include premium audit reports that were completed to verify the information provided by insureds for the basis of the calculation of the final premium and accounts that were quoted but not written by Home or declined by the account and related correspondence.

5. Later documents in categories already authorized for destruction. The orders authorizing disposal of records pursuant to the First and Second Motions authorized disposal of several categories of documents conditioned upon the age of the records. For example, the Order approving the Second Motion authorized disposal of Accounting Department records for 2000 and earlier periods. Since the time the First and Second Motions were filed, Liquidation staff has determined that accounting records dating prior to the commencement of the rehabilitation proceedings for Home and USI Re in March 2003 are no longer useful. This is also the case for other categories where disposal was conditioned upon the age of the records. The Liquidator accordingly requests approval to dispose of the following categories of records for periods after those authorized in the Court's prior orders provided the records are dated prior to March 2003:

Categories from First Order dated December 16, 2004:

- (g) correspondence files, general subject files and personal expense account files of employees;
- (h) state files regarding residual property markets and FAIR (Fair Access to Insurance Requirements) plans;
- (j) claim response time reports; and
- (k) catastrophe bulletins and reports.

Categories from Second Order dated August 12, 2005:

- (a) accounting department records;
- (f) third party administrator records;
- (j) data processing department reports;
- (p) treasury department files; and
- (q) human resource department files.

Bengelsdorf Aff. ¶ 5.

6. The Liquidator recommends pursuant to RSA 402-C: 50 that records of the Companies in the categories described in paragraphs 4 and 5 should be disposed of. The Liquidator will retain documents in the above categories if they are involved in a pending dispute or concern a proof of claim. Documents being disposed of that the Liquidator identifies as confidential or commercially sensitive will be shredded. Bengelsdorf Aff. ¶ 6.

7. Liquidation staff continues to evaluate the documents in storage to identify further categories of unnecessary records. To the extent such categories are identified, the Liquidator will seek the Court's approval for their destruction. Bengelsdorf Aff. ¶ 7.

8. For the reasons described above and in the Bengelsdorf Affidavit, the Liquidator submits that the disposal of these records is reasonable, prudent and in the best interests of the liquidation and of the policyholders and other creditors of the Companies. Bengelsdorf Aff ¶ 8.

WHEREFORE, the Liquidator respectfully requests that this Court:

- A. Grant this Third Motion for Approval of Disposal of Certain Records;
- B. Enter an Order in the form submitted herewith approving such Motion; 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 IN HIS CAPACITY AS LIQUIDATOR OF THE
HOME INSURANCE COMPANY AND
US INTERNATIONAL REINSURANCE COMPANY

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July 3, 2008

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Third Motion for Approval of Disposal of Certain Records, the Affidavit of Peter A. Bengelsdorf, and the Proposed Order, were sent, this 3rd day of July, 2008, by first class mail, postage prepaid to all persons on the attached service list.



Eric A. Smith

THE STATE OF NEW HAMPSHIRE

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