

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
SETTLEMENT AGREEMENT WITH WYETH**

Roger A. Sevigny, Insurance Commissioner 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 Settlement Agreement and Mutual Release ("Settlement Agreement") between Wyeth LLC, formerly known as Wyeth, which was formerly known as American Home Products Corporation (hereinafter referred to as "Wyeth") and the Liquidator. As reasons therefor, the Liquidator states as follows:

1. Home (or its former, now merged subsidiary, City Insurance Company) issued twenty-four insurance policies to Wyeth for certain policy periods between March 1, 1963 and July 1, 1983. Upon Home's placement in liquidation, Wyeth filed twenty-seven proofs of claim in the Home liquidation regarding claims under the policies, including but not limited to claims for coverage for environmental clean up costs and damages. Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Motion for Approval of Settlement Agreement with Wyeth ("Bengelsdorf Aff.") ¶ 3.

2. The Liquidator and Wyeth have negotiated a Settlement Agreement reflecting a resolution of environmental and certain other claims under the policies. A copy of the Settlement Agreement is attached hereto as Exhibit A. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 1. Bengelsdorf Aff. ¶ 4.

3. The Settlement Agreement provides that the Liquidator will recommend allowance of the proofs of claim in the aggregate amount of \$1,101,042 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 that Wyeth has under the policies with respect to (a) any and all past, present, future, known and unknown environmental claims, and (b) any known claims (including DES, asbestos exposure, polio vaccine and other “products” claims) other than environmental claims. Id. ¶ 2(B). See id. 4th and 5th Whereas clauses (defining “Environmental Claims” and “Known Claims”). 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). Bengelsdorf Aff. ¶ 5.

4. The Settlement Agreement is intended to resolve the proofs of claim and all claims under the policies as respects environmental claims and known non-environmental claims. See Settlement Agreement ¶¶ 2(B), 5. See id. 4th and 5th Whereas clauses (defining “Environmental Claims” and “Known Claims”). To that end, the Settlement Agreement provides for mutual releases of such claims between Home and Wyeth arising from or related to the proofs of claim or the policies. Id. ¶¶ 3, 4. The Liquidator also agrees not to pursue certain claims respecting the underlying matters covered by the proofs of claim against other insurers of Wyeth that agree not to pursue such claims against Home. Id. ¶ 6. Bengelsdorf Aff. ¶ 6.

5. The Liquidator is not aware of any third party claimants asserting claims under the policies. However, in resolving all matters relating to the proofs of claim and the policies as respects environmental claims and known claims of other types, the Settlement Agreement contemplates denial of third party claimants’ claims under the policies in the Home liquidation without prejudice to the third party’s claims against Wyeth. Accordingly, Wyeth acknowledges in the Settlement Agreement that it is intended to resolve all matters between Wyeth and the

Liquidator/Home relating to the proofs of claim and the policies as respects environmental claims and known claims of other types, including asserted rights of third party claimants. Settlement Agreement ¶ 5. Wyeth agrees to address, at its sole cost, the claims of claimants asserting such claims against Wyeth as if Wyeth had no insurance coverage from Home under the policies. Id. Wyeth agrees to indemnify the Liquidator and Home against such claims arising from the policies up to the amounts actually distributed to Wyeth. Id. Bengelsdorf Aff. ¶ 7.

6. The denial of any future third party claimants' proofs of claim without prejudice to their claims against Wyeth will not harm the third party claimants, who will continue to have their full claims against Wyeth. As noted above, Wyeth has agreed to address these claims as if it 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 this agreement, would release Wyeth from those claims up to the limits of the policies but only entitle the third party claimants (assuming their claims are allowed) to a presently undetermined percentage distribution at the future date when a distribution is made. See RSA 402-C:40, I; Gonya v. Commissioner, New Hampshire Insurance Dept., 153 N.H. 521, 535 (2006) (noting the "inherent uncertainty of any creditor's recovery in a liquidation"). It is not expected that the allowed claims of any third party claimants (or other Class II creditors) will be paid in full. Under the Settlement Agreement, Wyeth will continue to be fully responsible for any third party claimants' claims against it. See Settlement Agreement ¶ 5. Bengelsdorf Aff. ¶ 8.

7. The Settlement Agreement reflects a compromise of the claims asserted in the proofs of claim as respects environmental claims and known claims of other types. It is the result of negotiations involving Home's Claims Department, under the supervision of the Special Deputy Liquidator, which has extensive experience in assessing the exposure presented by

environmental and other claims under Home's insurance policies. The agreed settlement amount is based on careful evaluation and negotiation of coverage obligations under Home's policies respecting the underlying liabilities of Wyeth. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$1,101,042 settlement amount as a Class II claim in accordance with RSA 402-C:45 and RSA 402-C:44. Bengelsdorf Aff. ¶ 9.

8. The Court has previously approved similar settlement agreements. See, e.g., Order Approving Settlement Agreement with Wisconsin Energy (March 18, 2010); Order Approving Settlement Agreement with Honeywell (March 17, 2010); Order Approving Settlement Agreement with Straits Steel (May 3, 2009); Order Approving Settlement Agreement with R. Lavin & Sons Inc. (February 23, 2009); Order Approving Settlement Agreement with Georgia-Pacific (April 3, 2008); Order Approving Commutation Agreement with Northwestern National Insurance Company and Settlement Agreement and Assignment of Distribution with AK Steel Corporation (March 10, 2006). The Liquidator's negotiation and the Court's approval of such agreements are authorized by the broad authority of the Liquidator to "compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court," RSA 402-C:45, I, and the authority of the Court to "approve, disapprove or modify any report on claims by the liquidator." RSA 402-C:45, II. It is also an appropriate exercise of the Liquidator's authority ("[s]ubject to the court's control") to "do such other acts . . . as are necessary or expedient for the accomplishment of or in aid of the purpose of liquidation." RSA 402-C:25, XXII.

9. In his Motion for Approval of Commutation with Northwestern National Insurance Company and Settlement Agreement and Assignment of Distribution with AK Steel Corporation ¶¶ 19-23 (February 16, 2006), the Liquidator provided his analysis of New Hampshire law, including RSA 402-C:40 III, as it applies to this type of comprehensive policy

coverage compromise and settlement in an insurer liquidation context. That analysis also applies to the proposed Settlement Agreement with Wyeth.

10. The Liquidator submits that the Settlement Agreement is fair and reasonable and in the best interests of the policyholders and creditors of Home. See Bengelsdorf Aff. ¶ 10.

WHEREFORE, the Liquidator respectfully requests that this Court:

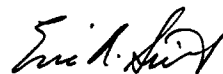
- A. Grant this Motion;
- B. Enter an Order in the form submitted herewith approving the Settlement Agreement, approving the Liquidator's claim recommendation, and allowing Wyeth's claim as a Class II claim in the aggregate amount of \$1,101,042; and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

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

By his attorneys,
MICHAEL A. DELANEY
ATTORNEY GENERAL

J. Christopher Marshall
NH Bar ID No. 1619
Civil Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, NH 03301-6397
(603) 271-3650



J. David Leslie
NH Bar ID No. 16859
Eric A. Smith
NH Bar ID No. 16952
Rackemann, Sawyer & Brewster P.C.
160 Federal Street
Boston, MA 02110
(617) 542-2300

April 21, 2010

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Motion for Approval of Settlement Agreement with Wyeth, the Affidavit of Peter A. Bengelsdorf, and the Proposed Order, were sent, this 21st day of April, 2010, by first class mail, postage prepaid to all persons on the attached service list.



Eric A. Smith
NH Bar ID No. 16952

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

SERVICE LIST

Lisa Snow Wade, Esq.
Orr & Reno
One Eagle Square
P.O. Box 3550
Concord, New Hampshire 03302-3550

Gary S. Lee, Esq.
James J. DeCristofaro, Esq.
Kathleen E. Schaaf, Esq.
Morrison & Foerster
1290 Avenue of the Americas
New York, New York 10104-0050

Pieter Van Tol, Esq.
Lovells
590 Madison Avenue
New York, New York 10022

Gail M. Goering, Esq.
Adam Goodman, Esq.
Eric Haab, Esq.
Lovells
One IBM Plaza
330 N. Wabash Avenue, Suite 1900
Chicago, Illinois 60611

Peter G. Callaghan, Esq.
Preti, Flaherty, Beliveau, Pachos
& Haley, PLLP
57 North Main Street
P.O. Box 1318
Concord, New Hampshire 03302-1318

George T. Campbell, III, Esq.
Robert A. Stein, Esq.
Robert A. Stein & Associates, PLLC
One Barberry Lane
P.O. Box 2159
Concord, New Hampshire 03302-2159

David M. Spector, Esq.
Dennis G. LaGory, Esq.
Schiff Hardin LLP
6600 Sears Tower
Chicago, Illinois 60606

Michael Cohen, Esq.
Cohen & Buckley, LLP
1301 York Road
Baltimore, Maryland 21093

David H. Simmons, Esq.
Mary Ann Etzler, Esq.
de Beaubien, Knight, Simmons,
Mantzaris & Neal, LLP
332 North Magnolia Avenue
P.O. Box 87
Orlando, Florida 32801

Martin P. Honigberg, Esq.
Sulloway & Hollis, P.L.L.C.
9 Capitol Street
P.O. Box 1256
Concord, New Hampshire 03302-1256

Richard Mancino, Esq.
Willkie Farr & Gallagher, LLP
787 Seventh Avenue
New York, New York 10019

Joseph G. Davis, Esq.
Willkie Farr & Gallagher, LLP
1875 K Street, N.W.
Washington, DC 20006

Albert P. Bedecarre, Esq.
Quinn Emanuel Urguhart Oliver & Hedges, LLP
50 California Street, 22nd Floor
San Francisco, California 94111

Jeffrey W. Moss, Esq.
Morgan Lewis & Bockius, LLP
225 Franklin Street
16th Floor
Boston, Massachusetts 02110

Gerald J. Petros, Esq.
Hinckley, Allen & Snyder LLP
50 Kennedy Plaza, Suite 1500
Providence, Rhode Island 02903

Christopher H.M. Carter, Esq.
Hinckley, Allen & Snyder LLP
11 South Main Street, Suite 400
Concord, New Hampshire 03301

Robert M. Horkovicheh
Robert Y. Chung
Anderson Kill & Olick, P.C.
1251 Avenue of the Americans
New York, New York 10020

Andrew B. Livernois
Ransmeier & Spellman, P.C.
One Capitol Street
P.O. Box 600
Concord, New Hampshire 03302-0600

John A. Hubbard
615 7th Avenue South
Great Falls, Montana 59405

Adebowale O. Osijo
2015 East Pontiac Way, Suite 203
Fresno, California 93276-3978

Jim Darnell, Esq.
Jim Darnell, P.C.
310 N. Mesa Street, Suite 212
El Paso, Texas 79901

Edmond J. Ford, Esq.
Ford & Weaver, P.A.
10 Pleasant Street, Suite 400
Portsmouth, New Hampshire 03801

Paul W. Kalish, Esq.
Ellen M. Farrell, Esq.
Timothy E. Curley, Esq.
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004-2595

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (the "Settlement Agreement") is made this 5th day of ~~December 2009~~ January 2010, by and between Wyeth LLC, formerly known as Wyeth, which was formerly known as American Home Products Corporation (hereinafter referred to as "Claimant") on the one hand, and Roger A. Sevigny, Commissioner of Insurance of the State of New Hampshire, solely in his capacity as Liquidator ("Liquidator") of the Home Insurance Company ("Home"), on the other hand (the Claimant and the Liquidator are hereinafter referred to collectively as the "Parties").

WHEREAS, Home (or its former, now merged subsidiary, City Insurance Company) issued the following insurance policies to American Home Products Corporation under which American Home Products Corporation is the named insured:

<u>Policy Number</u>	<u>Policy Period</u>
HEC9543314	3/1/63 - 7/1/64
HEC9543728	7/1/64 - 7/1/67
HEC9557910	7/1/67 - 7/1/70
HEC9791839	7/1/70 - 7/1/71
HEC9919962	7/1/71 - 7/1/72
HEC4356372	7/1/72 - 7/1/73
HEC4356871	4/23/73 - 7/1/73
HEC4357035	7/1/73 - 7/1/74
HEC4495864	7/1/74 - 7/1/75
HEC9006865	7/1/75 - 7/1/76
HEC9006699	7/1/75 - 7/1/78
HEC4356871	7/1/75 - 7/1/76
HEC9006896	10/1/75 - 7/1/76
HEC9007376	7/1/76 - 7/1/77
HEC9007377	7/1/76 - 7/1/77
HEC9531462	7/1/77 - 7/1/78
HEC9694100	7/1/78 - 7/1/79
HEC9694101	7/1/78-7/1/79
HEC9826241	7/1/79 - 7/1/80
HEC9826242	7/1/79 - 7/1/80
HEC9826243	7/1/79 - 7/1/80
HEC1198550	7/1/81 - 7/1/82
HEC1203537	1/1/81 - 7/1/81
HEC1199634	7/1/82 - 7/1/83

which together with all other insurance policies that Home may have issued to American Home Products Corporation are defined as the "Policies";

FB
TK

WHEREAS, Home is being liquidated pursuant to the June 13, 2003 Order of the Merrimack County Superior Court (the "Liquidation Court"), pursuant to which the Liquidator was appointed as the Liquidator of Home;

WHEREAS, Claimant seeks payment from Home respecting claims, including but not limited to claims for environmental clean up costs and damages, and Claimant has submitted proofs of claim in the Home liquidation estate that have been assigned the following proof of claim numbers:

- EMTL388286
- EMTL701106
- EMTL701107
- EMTL701108
- EMTL701109
- EMTL701110
- EMTL701111
- EMTL701112
- EMTL701113
- EMTL701114
- EMTL701121
- EMTL701122
- EMTL701123
- EMTL701124
- EMTL701125
- EMTL701126
- EMTL701127
- EMTL701128
- EMTL701129
- EMTL701130
- EMTL701131
- EMTL701132
- EMTL701133
- EMTL701134
- EMTL701135
- EMTL701138
- EMTL711664

which together with any other proof of claim hereinbefore or hereinafter filed by

Claimant in the Home liquidation estate are defined collectively as the "Proof of Claim";

WHEREAS, "Environmental Claims" means any and all past, present or future claims, demands, actions, suits or proceedings arising from, or related in any way to, the alleged, threatened or actual presence, discharge, dispersal, release, migration, seepage, movement, escape of, or exposure to, any harmful or injurious substance or material of any kind, nature or form, whatsoever, including, but not limited to, smoke, vapors, soot, fumes, acids, alkalis, chemicals, metals, oil, liquids, gases, waste, irritants, contaminants, pollutants or thermal, electric

I.D.
TWC

magnetic or electromagnetic emissions, or the effects thereof. By way of added specificity only, and without limiting the foregoing, "Environmental Claims" includes but is not limited to requests and demands by state and federal agencies for investigation and clean-up of pollution or contamination and for damages to natural resources.

WHEREAS, "Known Claims" means any and all claims, demands, actions, suits or proceedings known to Claimant as of the date of Claimant's execution of this Settlement Agreement and Release, other than Environmental Claims. Known Claims includes, but is not limited to, claims brought under the categories of claims identified in the Proof of Claim, namely, DES, asbestos exposure, polio vaccine and other "products" claims.

WHEREAS, the Parties are desirous of resolving all Environmental Claims and Known Claims that were or could have been asserted between them and resolving all such claims under the Proof of Claim and the Policies; and

WHEREAS, the Parties agree that this Settlement Agreement is subject to and conditioned upon its approval by the Liquidation Court and allowance of the Recommended Amount (as defined below) into the Home liquidation estate and in the event the Liquidation Court does not approve the Settlement Agreement and allow the Recommended Amount, this Settlement Agreement shall be null and void and without any force or effect;

NOW, THEREFORE, in consideration of all the respective transactions contemplated by this Settlement Agreement, and the mutual covenants and representations herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Effectiveness.** This Settlement Agreement is conditioned and shall only become effective (the "Effective Date") upon approval by the Liquidation Court. The Liquidator shall move for approval of this Settlement Agreement promptly following execution by all Parties.

2. **Recommendation, Allowance and Classification of Claims.**

A. Subject to all the terms of this Settlement Agreement, and with the agreement of Claimant, which by Claimant's execution hereof is hereby granted, the Liquidator shall recommend pursuant to NH RSA 402-C:45 that the Proof of Claim be allowed in the amount of \$1,101,042 (the "Recommended Amount") as a Class II priority claim under RSA 402-C:44. The Liquidator shall seek allowance of the Recommended Amount as a Class II

F.S.
Duk

priority claim by the Liquidation Court in the Liquidator's motion for approval of this Settlement Agreement.

B. Allowance of the Recommended Amount as a Class II claim by the Liquidation Court shall fully and finally resolve the Proof of Claim that Claimant has under the Policies with respect to: (1) any and all past, present, future, known and unknown Environmental Claims; and (2) any Known Claims. In the event that the Liquidation Court does not allow the Recommended Amount as a Class II claim, this Settlement Agreement shall be null and void and shall have no force and effect and the Parties will be returned to *status quo ante*, as if no such agreement was ever reached, with this Settlement Agreement then being inadmissible for any purpose in any dispute between the Parties.

C. If and when the Liquidation Court allows the Recommended Amount as a Class II claim, Claimant will become a Class II creditor in the Home liquidation estate pursuant to N.H. RSA 402-C:44, and Claimant shall, subject to this Settlement Agreement, receive distributions on the allowed amount at the same intervals and at the same percentages as other Class II creditors of Home.

3. Release by Claimant. Subject to the terms of this Settlement Agreement and the Liquidation Court's approval of the Recommended Amount as a Class II claim, Claimant for itself and on behalf of its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, and their successors and assigns (including any trustee or other statutory successor), irrevocably and unconditionally releases and discharges the Liquidator and Home and each of their respective officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors and assigns, from any and all actions, causes of action, liabilities, adjustments, obligations, offsets, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, premiums, losses, salvage, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims and/or demands, in law, admiralty or equity, arising from or related to the Proof of Claim or the Policies, as respects Environmental Claims (whether known or known or unknown, suspected or unsuspected, fixed or contingent), and Known Claims (whether fixed or

F. S.
Jmk

contingent), which Claimant, its subsidiaries, affiliates, predecessors, successors and assigns, ever had, now have or may have against the Liquidator or Home or their respective officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors and assigns, arising from or related to the Proofs of Claim or the Policies.

4. Release by Liquidator. Subject to the terms of this Settlement Agreement and the Liquidation Court's approval of the Recommended Amount as a Class II claim, the Liquidator, in his capacity as such, and on behalf of Home and each of their respective officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, and their successors and assigns, irrevocably and unconditionally releases and discharges Claimant and its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors and assigns, from any and all actions, causes of action, liabilities, adjustments, obligations, offsets, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, premiums, losses, salvage, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims and/or demands in law, admiralty or equity, arising from or related to the Proof of Claim or the Policies, as respects Environmental Claims (whether known or known or unknown, suspected or unsuspected, fixed or contingent), and Known Claims (whether fixed or contingent), which the Liquidator, Home, or their subsidiaries, affiliates, predecessors, successors and assigns, ever had, now have or hereafter may have against Claimant or its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors and assigns, arising from or related to the Proof of Claim or the Policies.

5. Resolution of Matters and Indemnification. Claimant acknowledges that this Settlement Agreement is intended to resolve all Environmental Claims and all other Known Claims, arising out of or relating to any rights it ever had, now has or hereafter may have in the Policies and the Proof of Claim, including any asserted rights of claimants against Claimant under the Policies, and Claimant agrees to address, at its sole cost and expense, any such claims of claimants against Claimant as if there had been no liquidation proceeding for Home and as if Claimant had no insurance coverage from Home by virtue of the Policies. In consideration of the Recommended Amount being allowed by the Liquidation Court as a Class II claim, Claimant

J.S.
J.K.

agrees to indemnify and hold the Liquidator and Home harmless from and against any and all claims, losses, liabilities, debts, damages, costs or expenses arising from or related to the Policies as respects Environmental Claims and Known Claims, and such indemnification shall be capped at the amount actually distributed in relation to the Recommended Amount as allowed by the Liquidation Court. The future obligations of Claimant under this paragraph shall extend to and include (by way of example and not limitation) any claims, including claims for defense and indemnity, made under the Policies against the Liquidator or Home by vendors of or respecting Claimant, by other insurers of Claimant, and by any individuals or entities asserting "direct action" claims arising out of or related to the Policies (hereinafter "Indemnified Claims"). The Liquidator shall promptly notify Claimant of any such claim, and shall afford Claimant the opportunity to reasonably participate in the defense of such claims. The Liquidator shall assert all defenses to such claims reasonably available to the Liquidator, including defenses under the Order of Liquidation or the New Hampshire Insurers Rehabilitation and Liquidation Act. Claimant shall cooperate with the Liquidator (including but not limited to the provision of affidavits or testimony) to defend against and resolve such claims.

6. Mutual Release of Settling Carriers. Claimant agrees to use reasonable commercial efforts to cause any settlement agreement relating to the underlying matters covered by the Proof of Claim with any other insurance company to include a waiver by that other insurance company of any claim, including contribution, apportionment, indemnification, subrogation, equitable subrogation, allocation or recoupment, against Home regarding these matters. The Liquidator agrees to waive, relinquish and release any claim, including contribution, apportionment, indemnification, subrogation, equitable subrogation, allocation or recoupment, as to the matters covered by the Proof of Claim against any other insurance company which executes a settlement with Claimants that includes a provision that is materially the same as this paragraph.

7. No Assignments. Claimant warrants and agrees that it has not assigned, conveyed, or otherwise transferred any claims, demands, causes of action, rights, or obligations related in any way to the Policies, or any proceeds thereof, or to the claims, losses and expenses released herein, to any person or entity. Claimant shall not assign or otherwise transfer this

J.A.
T.K.

Settlement Agreement or any rights or obligations thereunder without the written consent of the Liquidator, which consent shall not be unreasonably withheld.

8. Further Assurances. The Parties shall take all further actions as may be necessary to carry out the intent and purpose of this Settlement Agreement and to consummate the transactions contemplated herein.

9. Governing Law and Venue. This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire without regard to the conflicts of law provisions thereof. The Parties agree that the exclusive venue for any dispute between the Parties arising out of the Proof of Claim, the Policies or this Settlement Agreement shall be the Liquidation Court.

10. Due Diligence. The Parties acknowledge and agree that, in negotiating and executing this Settlement Agreement, they have relied upon their own judgment and upon the recommendations of their own legal counsel, that they have read this Settlement Agreement and have had the opportunity to consider its terms and effects and that they have executed this Settlement Agreement voluntarily and with full understanding of its terms and effects. This Settlement Agreement is the product of negotiations between the Parties. No Party shall be charged with having promulgated this Settlement Agreement, and the general rule that ambiguities are to be construed against the drafter shall not apply to this Agreement.

11. No Third Party Rights. This Settlement Agreement is entered into solely for the benefit of the Liquidator, Home and Claimant and is not intended to, and does not give or create any rights to or in any person or entity other than the Parties.

12. Counterparts. This Settlement Agreement may be executed in multiple counterparts, each of which, when so delivered, shall be an original, but such counterparts shall together constitute one and the same instrument. The Parties agree that a signature sent by facsimile or electronic mail to the other Party shall have the same force and effect as an original signature.

13. Power and Authority to Execute. Subject to the approval of the Liquidation Court required by paragraph 1, each Party hereto represents and warrants that it has the full power and authority to execute, deliver and perform this Settlement Agreement; that all requisite and

F.S.
Pate

necessary approvals have been obtained to consummate the transactions contemplated by this Settlement Agreement; that there are no other agreements or transactions to which it is a party that would render this Settlement Agreement or any part thereof, void, voidable or unenforceable; that each individual signing on behalf of a Party has been duly authorized by that Party to execute this Settlement Agreement on its behalf, and that no claims being released under the terms of this Settlement Agreement have been assigned, sold, or otherwise transferred to any other entity.

14. Successor-in-Interest Bound. This Settlement Agreement shall be binding upon, and shall inure to the benefit of the Parties and their respective officers, directors, employees, affiliates, attorneys, liquidators, receivers, administrators, agents, representatives, successors and assigns.

15. Entire Agreement. This Settlement Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter thereof. This Settlement Agreement supersedes all prior agreements and understandings, whether written or oral, concerning such matters.

16. Survival of Warranties and Representations. The warranties and representations made herein shall survive the execution of this Settlement Agreement.

17. Validity of Settlement Agreement. Subject to approval of this Settlement Agreement by the Liquidation Court as required by paragraph 1, each Party represents and warrants that this Settlement Agreement is a legal, valid and binding obligation, enforceable in accordance with its terms.

18. No Waiver. No waiver of any right under this Settlement Agreement shall be deemed effective unless contained in a writing signed by the Party or an authorized representative of the Party charged with such waiver, and no waiver of any breach or failure to perform shall be deemed to be a waiver of any future breach or failure to perform or of any other provision of this Settlement Agreement. This Settlement Agreement may not be amended except in a document signed by the Party or an officer or other authorized official of the Party to be charged.

19. Notice. All notices to be given under this Settlement Agreement shall be given by facsimile and first class U.S. mail directed to:

If to Claimant, to:

J.S.
Duk

Frank Santomauro, Assistant Director
Wyeth, LLC
Five Giralda Farms
Madison, NJ 07940
Fax: 973-660-7349

If to the Liquidator, to:

Thomas W. Kober, Chief Claims Officer
The Home Insurance Company in Liquidation
59 Maiden Lane
New York, New York 10038
Fax: 212-299-3824

and

J. Christopher Marshall
Civil Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, New Hampshire 03301-6397
Fax: 603-271-2110

and

J. David Leslie, Esq.
Rackemann, Sawyer & Brewster, P.C.
160 Federal Street
Boston, MA 02110-1700
Fax: 617-542-7437

20. Severability. If any provision of this Settlement Agreement is invalid, unenforceable or illegal under the law of any applicable jurisdiction, the validity and enforceability of such provision in any other jurisdiction shall not be affected thereby and the remaining provisions of this Settlement Agreement shall remain valid and enforceable. However, in the event of such invalidity, unenforceability or illegality, the Parties shall negotiate in good faith to amend this Settlement Agreement through the insertion of additional provisions which are valid, enforceable and legal and which reflect, to the extent possible, the purposes contained in the invalid, unenforceable or illegal provision.

WHEREFORE, the Parties have caused this Settlement Agreement to be executed on

*J.S.
rsk*

their respective behalves as of the date below the signatures of their duly authorized representatives.

WYETH LLC,

By: *Frank Santomuro of*
Name: *Wyeth, LLC*
Title: *Assistant Director*
Date: *12/21/09*

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

By: *Thomas W. Kober*
Name: *Thomas W. Kober*
Title: *Chief Claims Officer*
Date: *1/5/2010*