

**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**

**AFFIDAVIT OF PETER A. BENGELSDORF, SPECIAL DEPUTY  
LIQUIDATOR, IN SUPPORT OF MOTION FOR APPROVAL OF  
SETTLEMENT AGREEMENT WITH THE DIOCESE OF PUEBLO**

I, Peter A. Bengelsdorf, hereby depose and say:

1. I was appointed Special Deputy Liquidator of the Home Insurance Company (“Home”), by the Insurance Commissioner for the State of New Hampshire, as Liquidator (“Liquidator”) of Home. I submit this affidavit in support of the Liquidator’s Motion for Approval of Settlement Agreement with the Diocese of Pueblo. The facts and information set forth are either within my own knowledge gained through my involvement with this matter, in which case I confirm that they are true, or are based on information provided to me by others, in which case they are true to the best of my knowledge, information, and belief.
2. The motion seeks approval for the Settlement Agreement and Mutual Release (“Settlement Agreement”) between the Diocese of Pueblo and The Bishop of Pueblo (collectively, the “Diocese of Pueblo”) and the Liquidator. The Settlement Agreement was negotiated under my supervision. A copy of the Settlement Agreement is attached as Exhibit A to the Liquidator’s motion.
3. Home issued an insurance policy to the Diocese of Pueblo for the policy period between August 21, 1974 and August 21, 1977. Settlement Agreement, first Whereas clause.

Upon Home's placement in liquidation, the Diocese of Pueblo filed a proof of claim in the Home liquidation regarding claims under the policy. Settlement Agreement, third Whereas clause.

4. The Liquidator and the Diocese of Pueblo have negotiated a Settlement Agreement reflecting a resolution of the proof of claim and all matters under the policy. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 1.

5. The Settlement Agreement provides that the Liquidator will recommend allowance of the proof of claim in the aggregate amount of \$325,000 as a Class II priority claim of the Diocese of Pueblo 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 proof of claim and all claims the Diocese of Pueblo has under the policy. Id. ¶2(B). 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).

6. The Settlement Agreement is intended to resolve the proof of claim and all claims under the policy. See Settlement Agreement ¶¶ 2(B), 5. To that end, the Settlement Agreement provides for mutual releases of all claims among the Liquidator, Home and the Diocese of Pueblo arising from or related to the proof of claim or the policy. Id. ¶¶ 3, 4. The Liquidator also agrees not to pursue claims respecting the underlying matters covered by the proof of claim against other insurers of the Diocese of Pueblo that agree not to pursue such claims against Home. Id. ¶ 6.

7. The Liquidator is not aware of any third party claimants who have asserted claims under the policy. However, in resolving all matters relating to the proof of claim and the policy, the Settlement Agreement contemplates denial of any third party claimants' claims under the policy in the Home liquidation without prejudice to their claims against the Diocese of Pueblo.

Accordingly, the Diocese of Pueblo acknowledges in the Settlement Agreement that it is intended to resolve all matters between the Diocese of Pueblo and the Liquidator/Home relating to the proof of claim and the policy, including asserted rights of third party claimants.

Settlement Agreement ¶ 5. The Diocese of Pueblo agrees to address, at its sole cost, the claims of claimants asserting claims against the Diocese of Pueblo as if the Diocese of Pueblo had no insurance coverage from Home under the policy. Id. The Diocese of Pueblo agrees to indemnify the Liquidator and Home against claims arising from the policy up to the amounts ultimately distributed or distributable to the Diocese of Pueblo. Id.

8. The denial of any third party claimants' proof of claim without prejudice to their claims against the Diocese of Pueblo will not harm the third party claimants, who will continue to have their full claims against the Diocese of Pueblo. As noted above, the Diocese of Pueblo has agreed to address these claims as if it had no insurance coverage from Home under the policy. Settlement Agreement ¶ 5. Third party claimants' proofs of claim against the insolvent Home, if not denied with this agreement, would release the Diocese of Pueblo from those claims up to the limits of the policy but only entitle the third party claimants (assuming their claims were allowed) to a presently undetermined percentage distribution at the future date when a distribution is made. 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, the Diocese of Pueblo will continue to be fully responsible for any third party claimants' claims against it. See Settlement Agreement ¶ 5.

9. The Settlement Agreement reflects a compromise of the claims asserted in the proof of claim. It is the result of negotiations involving the Claims Department, under my supervision, which has extensive experience in assessing claims under Home's insurance

policies. The agreed settlement amount is based on careful evaluation and negotiation of coverage obligations under Home's policy respecting the underlying liabilities of the Diocese of Pueblo. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$325,000 settlement amount as a Class II claim of the Diocese of Pueblo in accordance with RSA 402-C:45 and RSA 402-C:44.

10. I believe that the Settlement Agreement is fair and reasonable and in the best interests of the policyholders and creditors of Home.

Signed under the penalties of perjury this 1 day of November, 2012.

Peter A. Bengelsdorf  
Peter A. Bengelsdorf  
Special Deputy Liquidator of The Home Insurance  
Company

STATE OF NEW HAMPSHIRE  
MERRIMACK COUNTY

Subscribed and sworn to, before me, this 1<sup>st</sup> day of November, 2012.

Diane T. Cygan  
Notary Public/Justice of the Peace  
*Commission Expires 6/4/2013*

