

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 HOPEMAN**

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 Hopeman. 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 Hopeman Brothers, Inc. (“Hopeman”) 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 seven insurance policies to Hopeman for policy periods between March 14, 1971 and January 1, 1985. Settlement Agreement, first Whereas clause. After Home’s placement in liquidation, Hopeman filed a proof of claim in the Home liquidation

regarding asbestos bodily injury claims under the policies. Settlement Agreement, third Whereas clause.

4. The Liquidator and Hopeman have negotiated a Settlement Agreement reflecting a resolution of the proof of claim and all matters under the policies. 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 with respect to the settled claims in the aggregate amount of \$15,000,000 as a Class II priority claim of Hopeman 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 Hopeman has under the policies. 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, except that Hopeman will not receive the initial distribution. Id. ¶ 2(C). This is because Hopeman's proof of claim is an unexcused late filing under RSA 402-C:37, III.

6. The Settlement Agreement is intended to resolve the proof of claim and all claims under the policies. See Settlement Agreement ¶¶ 2(B), 5. To that end, the Settlement Agreement provides for mutual releases of all claims among the Liquidator, Home and Hopeman arising from or related to the proof of claim or the policies. 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 Hopeman 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 policies.¹ However, in resolving all matters relating to the proof of claim and the policies, the Settlement Agreement contemplates denial of any third party claimants' claims under the policies in the Home liquidation without prejudice to their claims against Hopeman. Accordingly, Hopeman acknowledges in the Settlement Agreement that it is intended to resolve all matters between Hopeman and the Liquidator/Home relating to the proof of claim and the policies, including asserted rights of third party claimants. Settlement Agreement ¶ 5. Hopeman agrees to address, at its sole cost, the claims of claimants asserting claims against Hopeman as if Hopeman had no insurance coverage from Home under the policies. Id. Hopeman agrees to indemnify the Liquidator and Home against claims arising from the policies up to the amounts ultimately distributed or distributable to Hopeman. Id.

8. The denial of any third party claimants' proofs of claim without prejudice to their claims against Hopeman will not harm the third party claimants, who will continue to have their claims against Hopeman. As noted above, Hopeman 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 Hopeman from those claims up to the limits of the policies but only entitle the third party claimants (assuming their claims were allowed) to a presently undetermined percentage distribution (inclusive of the pending 15% interim distribution) in the future 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, Hopeman will

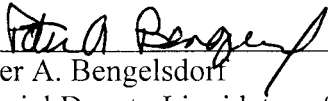
¹ Certain of Hopeman's insurers have submitted contribution claims in respect of the policies. Unlike third party claimants' claims, a contribution claim is independent of the insured's claims (although derived from the same underlying circumstances), and it will be determined under applicable law in the liquidation proceeding.

continue to be 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 the exposure presented by claimants asserting asbestos bodily injury 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 Hopeman. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$15,000,000 settlement amount as an unexcused late-filed Class II claim of Hopeman in accordance with RSA 402-C:45, RSA 402-C:44, and RSA 402-C:37, III.

10. The Liquidator submits 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 25 day of October, 2013.



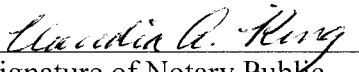
Peter A. Bengelsdorf
Special Deputy Liquidator of The Home Insurance
Company

STATE OF CALIFORNIA
COUNTY OF VENTURA

On OCT. 25, 2013 before me, CLAUDIA A. KING - Notary Public, personally appeared Peter A. Bengelsdorf, Special Deputy Liquidator of The Home Insurance Company, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 
Signature of Notary Public

