

**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 MANNINGTON**

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 Mannington. 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 Mannington Mills Inc. (“Mannington”) 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 twenty-two insurance policies to Mannington for various policy periods between February 1, 1985 and September 15, 1993. Settlement Agreement, first Whereas clause. Upon Home’s placement in liquidation, Mannington filed seventeen proofs of

claim in the Home liquidation regarding claims under the policies, including but not limited to claims for coverage for asbestos bodily injury. Settlement Agreement, third Whereas clause.

4. The Liquidator and Mannington have negotiated a Settlement Agreement reflecting a resolution of the proofs 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 proofs of claim with respect to the settled claims in the aggregate amount of \$7,000,000 as a Class II priority claim of Mannington 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 and all claims Mannington 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. Id. ¶ 2(C).

6. The Settlement Agreement is intended to resolve the proofs of claim and all claims under the policies. See Settlement Agreement ¶ 2(B). To that end, the Settlement Agreement provides for mutual releases of all claims among the Liquidator, Home and Mannington arising from or related to the proofs of claim or the policies. Id. ¶¶ 4, 5. The Settlement Agreement also includes Mannington's release of the insurance guaranty associations because Mannington has asserted certain claims against insurance guaranty associations with respect to Home. Id. ¶ 4. While the Liquidator believes it unnecessary in light of the broad mutual releases, the Settlement Agreement expressly confirms that there are and will be no additional premium or other additions or reductions in light of the settlement. Id. ¶ 2(D). The Liquidator also releases claims respecting the underlying matters covered by the proofs of claim against other insurers of Mannington that agree to release such claims against Home. Id. ¶ 6.

7. The Liquidator is not aware of any third party claimants who have asserted claims under the policies.<sup>1</sup> However, in resolving all matters relating to the proofs 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 Mannington. The Settlement Agreement is intended to resolve all matters between Mannington and the Liquidator/Home relating to the proofs of claim and the policies, including asserted rights of third party claimants. See Settlement Agreement, fourth Whereas clause, ¶ 7. Mannington agrees to address, at its sole cost, the claims of claimants asserting claims against Mannington as if Mannington had no insurance coverage from Home under the policies. Id. ¶ 7(A). Mannington agrees to indemnify the Liquidator and Home against claims arising from the policies up to the amounts ultimately distributed or distributable to Mannington. Id. ¶ 7.

8. The denial of any third party claimants' proofs of claim without prejudice to their claims against Mannington will not harm the third party claimants, who will continue to have their claims against Mannington. As noted above, Mannington has agreed to address these claims as if it had no insurance coverage from Home under the policies. Settlement Agreement ¶ 7(A). Third party claimants' proofs of claim against the insolvent Home, if not denied with this agreement, would release Mannington 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 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, Mannington will continue to be responsible for any third party claimants' claims against it. See Settlement Agreement ¶ 7.

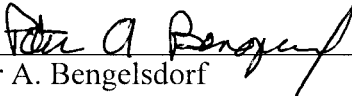
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<sup>1</sup> A proof of claim was submitted by a law firm for services in defending Mannington in underlying litigation. That claim has been satisfied by the New Jersey guaranty association and is being denied for that reason.

9. The Settlement Agreement reflects a compromise of the claims asserted in the proofs 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 claims for asbestos bodily injury 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 Mannington. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$7,000,000 settlement amount as a Class II claim of Mannington 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, 2013.

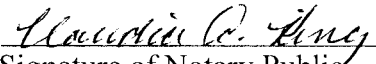
  
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Peter A. Bengelsdorf  
Special Deputy Liquidator of The Home Insurance  
Company

STATE OF CALIFORNIA  
COUNTY OF VENTURA

On NOV 1, 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

