

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 SYNGENTA**

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 Syngenta. 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 Syngenta Crop Protection, LLC (f/k/a Syngenta Crop Protection, Inc.) ("Syngenta") 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. Syngenta, its indirect parent Syngenta Corporation, and the other subsidiaries of Syngenta Corporation are collectively the successor in interest to the US crop protection and seed business of Novartis Corporation (f/k/a Ciba-Geigy Corporation) and its predecessor Geigy

Chemical Corporation ("Predecessors") that was transferred effective on or about November 13, 2000 to Syngenta Corporation and/or its subsidiaries, including Syngenta (hereafter referred to as the "US Agribusiness").

4. Home issued eight insurance policies to Ciba-Geigy Corporation and its predecessor, Geigy Chemical Corporation, for various policy periods between April 1, 1971 and April 1, 1980. Settlement Agreement, second Whereas clause. Syngenta filed twelve proofs of claim in the Home liquidation. Settlement Agreement, fourth Whereas clause.

5. The Liquidator and the Syngenta have negotiated the Settlement Agreement reflecting a resolution of the proofs of claim and all matters between them under the policies. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 1.

6. The Settlement Agreement provides that the Liquidator will recommend allowance of the proofs of claim in the aggregate amount of \$14,800,000 as a Class II priority claim of Syngenta 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 Syngenta 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).

7. The Settlement Agreement is intended to resolve the proofs of claim and all claims that Syngenta has 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 Syngenta (for itself and on behalf of Syngenta Corporation and its subsidiaries and also on behalf of the Predecessors solely as to their claims arising from the US Agribusiness) arising from or related to the proofs of claim or the policies. Id. ¶¶ 3, 4. The Liquidator also releases

claims respecting the underlying matters covered by the proofs of claim against other insurers of Syngenta that agree to release such claims against Home. Id. ¶ 6.

8. The Liquidator is not aware of any third party claimants asserting claims under the policies.<sup>1</sup> However, in resolving all of Syngenta's claims (and all claims of Syngenta Corporation and its subsidiaries) 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 Syngenta. See Settlement Agreement, ¶ 5. Syngenta agrees to address, at its sole cost, the claims of third party claimants asserting claims against Syngenta as if Syngenta (and Syngenta Corporation and its subsidiaries) had no insurance coverage from Home under the policies, if and to the extent such claims arise from or are related to the US Agribusiness of the Predecessors. Id. Syngenta also agrees to indemnify and hold the Liquidator and Home harmless from claims arising from or relating to the proofs of claim or the policies, if and to the extent such claims arise from or are related to the US Agribusiness of the Predecessors, up to the amount ultimately distributed or distributable to Syngenta. Id.

9. The denial of any third party claimants' claim without prejudice to their claims against Syngenta will not harm the third party claimants, who will continue to have their claims against Syngenta. As noted above, Syngenta 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 the agreement, would release Syngenta from those claims up to the limits of the policies but only entitle the third party claimants (assuming their claims were allowed) to the 15% interim distribution and any later

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<sup>1</sup> One insurer submitted a contribution claim in respect of the policies. That proof of claim has been determined as to priority (Class V) and otherwise indefinitely deferred.

distribution at a presently undetermined percentage at the future date when distribution is made. It is not expected that the allowed claims of any third party claimants (or other Class II creditors) of Home will be paid in full. Under the Settlement Agreement, Syngenta will continue to be responsible for any third party claimants' claims against it. See Settlement Agreement ¶ 5.

10. 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 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 Syngenta. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$14,800,000 settlement amount as a Class II claim of Syngenta in accordance with RSA 402-C:45 and RSA 402-C:44.

11. 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 5<sup>TH</sup> day of June, 2015.

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


A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF VENTURA

On June 5, 2015 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

