

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Docket No. 217-2003-EQ-00106

**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 ARCHDIOCESE OF SAINT PAUL AND
MINNEAPOLIS**

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 Archdiocese of Saint Paul and Minneapolis. 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 Archdiocese of Saint Paul and Minneapolis, on its own behalf and as successor to the Diocese of Saint Paul (collectively, the “Archdiocese”), 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 two insurance policies to the Diocese of Saint Paul under which the Archdiocese is insured for various policy periods between August 1, 1961 and August 1, 1967, which, together with all other insurance policies Home may have issued to the Archdiocese are

referred to collectively as the “Policies”. Settlement Agreement, first Whereas clause. Upon Home’s placement in liquidation, the Archdiocese filed a proof of claim with respect to insurance coverage for alleged bodily injury liabilities in the Home liquidation, which, together with any other proofs of claim hereinbefore or hereinafter filed by the Archdiocese in the Home liquidation are referred to collectively as the “Proofs of Claim”. Id., third Whereas clause.

4. The Archdiocese is the subject of a bankruptcy proceeding pending before the United States Bankruptcy Court for the District of Minnesota (“Bankruptcy Court”), In re Archdiocese of Saint Paul and Minneapolis, No. 15-bk-30125-RJK (Bankr. D. Minn.). Settlement Agreement, fourth Whereas clause. This Settlement Agreement is subject to approval by the Bankruptcy Court. Because of the pending bankruptcy proceeding for the Archdiocese and the anticipated plan of reorganization for the Archdiocese, the Settlement Agreement contains certain provisions that vary from other settlement agreements between the Liquidator and policyholder claimants.

5. The Liquidator and the Archdiocese have negotiated the Settlement Agreement reflecting a resolution of the Proofs of Claim and all matters between them under the Policies. Settlement Agreement, fifth Whereas clause. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 2(A). It is also subject to approval by the Bankruptcy Court. Id. ¶ 2(B)(1). It is also conditioned upon entry by the Bankruptcy Court of an order approving a buyback of the Policies under the Bankruptcy Code, and the Bankruptcy Court’s approval of a plan of reorganization (“Plan”) for the Archdiocese that includes channeling injunctions to protect Home and the Liquidator by channeling all claims relating to the Policies to a trust to be established as part of the Plan. Id. ¶¶ 2(B)(2) and (3). The Archdiocese has recently filed such a Plan, including channeling injunctions and the creation of a trust, with the

Bankruptcy Court. (The Liquidator reviewed the Plan as provided for in paragraph 3 of the Settlement Agreement before it was filed.)

6. The Settlement Agreement will become effective when all of the conditions noted in paragraph 5 above are satisfied. Settlement Agreement ¶ 2.

7. The Settlement Agreement provides that the Liquidator will recommend allowance of the Proofs of Claim in the amount of \$14,200,000 (the “Recommended Amount”) as a Class II priority claim under RSA 402-C:44. Settlement Agreement ¶ 4(A).

8. Allowance of the Recommended Amount as a Class II claim will fully and finally resolve the Proofs of Claim and all claims the Archdiocese has against Home under the Policies. Settlement Agreement ¶ 4(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. ¶ 4(C).

9. The Settlement Agreement is intended to resolve the Proofs of Claim and all claims that the Archdiocese has under the Policies. See Settlement Agreement ¶ 4(B). To that end, the Settlement Agreement provides for mutual releases of claims arising from or related to the Proofs of Claim or the Policies between the Archdiocese and Home and the Liquidator. Id. ¶¶ 5, 6.

10. In resolving all of the Archdiocese’s claims relating to the Proofs of Claim and the Policies, the Settlement Agreement is intended to resolve all matters arising out of or relating to any rights the Archdiocese ever had, now has, or hereafter may have under the Policies or the Proofs of Claim, including any asserted rights of third-party claimants against the Archdiocese under the Policies. See Settlement Agreement ¶ 7. The Archdiocese agrees to address any such claims of third-party claimants against the Archdiocese as if there had been no liquidation proceeding for Home and as if the Archdiocese had no insurance coverage from Home by virtue

of the Policies. Id. Such claims by third parties against the Archdiocese will be determined in accordance with the Plan as ultimately approved by the Bankruptcy Court and the Bankruptcy Code.

11. The Liquidator is not aware of any third party claimants against the Archdiocese asserting claims under the Policies. However, the denial of any third party claimants' claims without prejudice to their claims against the Archdiocese will not harm third party claimants, who will continue to have their claims against the Archdiocese subject to the provisions of the Plan as ultimately approved by the Bankruptcy Court (including channeling injunctions which will channel such third party claims to the trust) and the Bankruptcy Code. As noted above, the Archdiocese has agreed to address these claims as if it had no insurance coverage from Home under the Policies. Settlement Agreement ¶ 7. Third party claimants' proofs of claim against the insolvent Home, if not denied with the agreement, would release the Archdiocese from those claims up to the limits of the policies but only entitle the third party claimants (assuming their claims were allowed) to the initial interim distributions and any later distribution at a presently undetermined distribution percentage from Home 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, the Archdiocese is responsible for any third party claimants' claims against it, and they will be resolved in accordance with the Plan and applicable bankruptcy law and the procedures. See id. ¶ 7.

12. The Liquidator is not aware of any other proof of claim asserting claims under the Policies. While the Church of the Nativity of Our Lord in St. Paul, Minnesota has asserted a right to coverage under the Policies in a settlement demand made to the Liquidator, it has not submitted a proof of claim. The Archdiocese represents that it has authority to release a claim by the Church of the Nativity of Our Lord as part of the Settlement Agreement. Settlement

Agreement ¶ 7. A copy of this motion is being sent to counsel for the Church of the Nativity of Our Lord.


13. In any event, if a claim of a claimant is subject to the same limit of liability as the claims resolved by the Settlement Agreement, and if the total allowed amounts for all claimants exceed the limit, then the allowed amounts for claimants will be subject to adjustment under RSA 402-C:40, IV, so that the policy limit will not be exceeded. See Settlement Agreement ¶ 9.

14. The Settlement Agreement contains provisions to minimize or avoid contribution or related claims between insurers of the Archdiocese. See Settlement Agreement ¶¶ 2(B)(2) and (3), 4(D), and 8.

15. 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 the Policies respecting the underlying liabilities of the Archdiocese. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$14,200,000 settlement amount as a Class II claim of the Archdiocese in accordance with RSA 402-C:45 and RSA 402-C:44.

16. 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 1ST day of June, 2016.



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

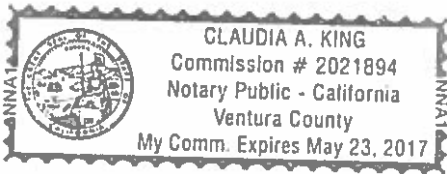
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA
COUNTY OF VENTURA

On June 1, 2016 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 *Claudia A. King*
Signature of Notary Public