

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 DOE RUN AND RENCO**

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 of 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 Doe Run and Renco. 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 Doe Run Resources Corporation (d/b/a The Doe Run Company), as successor to St. Joe Minerals Corporation and St. Joseph Lead Company (“Doe Run”) and The Renco Group, Inc., Doe Run’s ultimate parent company (“Renco”) (collectively, “Claimants”) 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 three insurance policies under which St. Joseph Lead Company is the named insured for various periods between October 3, 1963 and February 4, 1973 and one policy under which St. Joe Minerals Corporation is the named insured for the period February 4, 1973 to February 4, 1976, which, together with all other insurance policies Home may have issued to Doe Run, are referred to collectively as the “Doe Run Policies”. Settlement Agreement, first Whereas clause. Upon Home’s placement in liquidation, Doe Run submitted four proofs of claim in the Home liquidation regarding asserted lead-related bodily injury and property damage claims which, together with any other proofs of claim hereinbefore or hereinafter filed by Doe Run in the Home liquidation, are referred to collectively as the “Doe Run Proofs of Claim”. Id., fourth Whereas clause.

4. Home issued six insurance policies under which Renco is the named insured for various periods between January 15, 1988 and August 31, 1995, which, together with all other insurance policies Home may have issued to Renco, are referred to collectively as the “Renco Policies”. Settlement Agreement, second Whereas clause. Upon Home’s placement in liquidation, Renco submitted three proofs of claim in the Home liquidation regarding asserted lead-related bodily injury and property damage claims and other claims which, together with any other proofs of claim hereinbefore or hereinafter filed by Renco in the Home liquidation, are referred to collectively as the “Renco Proofs of Claim”. Id., fifth Whereas clause.

5. The Liquidator and the Claimants have negotiated the Settlement Agreement reflecting a resolution of the Doe Run Proofs of Claim and all matters between them under the Doe Run Policies as well as all Doe Run related matters under the Renco Proofs of Claim and under the Renco 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 Doe Run Proofs of Claim in the aggregate amount of \$101,250,000 (the “Recommended Amount”) as a Class II priority claim 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 Doe Run Proofs of Claim and all claims that Doe Run has under the Doe Run Policies or the Renco Policies. Id. ¶ 2(B). In conjunction with that allowance, Renco releases all claims Renco has under the Doe Run Policies and all claims Renco has under the Renco Policies except for claims that do not arise out of or relate to Doe Run, Doe Run’s operations, or sites owned or operated by Doe Run (“Non-Doe Run Claims”). Id. Distributions based on that allowance will be made to Doe Run 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 Doe Run Proofs of Claim and all claims that the Doe Run has under the Doe Run Policies or the Renco Policies, as well as to resolve all claims that Renco has under the Doe Run Policies and all Doe Run related claims Renco has under the Renco Policies. See Settlement Agreement ¶ 2(B). To that end, the Settlement Agreement provides for release by Doe Run of the Liquidator and Home from all claims related to the Doe Run Proofs of Claim, the Doe Run Policies, or the Renco Policies. Id. ¶ 3.A. It also provides for a limited release by Renco of the Liquidator and Home from all claims related to (1) the Renco Proofs of Claim or the Renco Policies which relate to Doe Run, Doe Run’s operations, or sites owned or operated by Doe Run, or (2) the Doe Run Policies. Id. ¶ 3.B. In turn, the Liquidator and Home release Doe Run and Renco from all claims related to the Doe Run Proofs of Claim, the Renco Proofs of Claim, the Doe Run Policies and the Renco Policies, except that the Liquidator and Home do not release Renco on matters relating to any Non-Doe Run Claims. Id. ¶ 4.

8. In resolving all of the Claimants' claims relating to the Doe Run Proofs of Claim and the Doe Run Policies and claims relating to the Renco Proofs of Claim and the Renco Policies except for any Non-Doe Run Claims, the Settlement Agreement is intended to resolve all matters arising out of or relating to any rights the Claimants ever had, now have, or hereafter may have in the Doe Run Policies and the Doe Run Proofs of Claim, as well as in the Renco Policies and Renco Proofs of Claim (except for any Non-Doe Run Claims), including any asserted rights of third-party claimants against the Claimants under the Doe Run Policies. See Settlement Agreement ¶ 5. The Claimants agree to address, at their sole cost, any such claims of third-party claimants against the Claimants as if there had been no liquidation proceeding for Home and as if Claimants had no insurance coverage available from Home by virtue of the Doe Run Policies. Id. Doe Run – which is to receive the allowance under the Doe Run Policies – agrees to indemnify and hold the Liquidator and Home harmless from all claims arising from or related to the Doe Run Proofs of Claim or the Doe Run Policies, including asserted rights of third party claimants, up to the amount ultimately distributed or distributable to Doe Run. Id.

9. The Liquidator is not aware of any third party claimants asserting claims under the Doe Run Policies or the Renco Policies.¹ However, the denial of any third party claimants' claims without prejudice to their claims against the Claimants will not harm the third party claimants who will continue to have their claims against the Claimants. The Claimants have agreed to address these claims as if they had no insurance coverage available from Home under the Doe Run Policies. Settlement Agreement ¶ 5. Third party claimants' proofs of claim against the insolvent Home, if not denied with the agreement, would release the Claimants from those

¹ The Liquidator is aware that an insurer submitted proofs of claim asserting contribution claims related to the Doe Run Policies and the Renco Policies. A notice of determination as to priority only has been issued regarding those proofs of claim. 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. (Another insurer's proof of claim asserting a contribution claim related to the Renco Policies was disallowed earlier this year.)

claims up to the limits of the applicable 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 Claimants are responsible for any third party claimants' claims against them. Id. ¶ 5.

10. The Liquidator is not aware of any proofs of claim asserting a claim to the same Doe Run Policy limits as the proofs of claim which are resolved by the Settlement Agreement. However, if a claim of another 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 all claimants will be subject to adjustment under RSA 402-C:40, IV, so that the policy limit will not be exceeded. Settlement Agreement ¶ 6.

11. The Settlement Agreement reflects a compromise of the claims asserted in the Doe Run Proofs of Claim and also the Renco Proofs of Claim except for any Non-Doe Run Claims. 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 Doe Run Policies and the Renco Policies respecting the underlying liabilities of the Claimants. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$101,250,000 settlement amount as a Class II claim of Doe Run in accordance with RSA 402-C:45 and RSA 402-C:44.

12. 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 13 day of September, 2016.

Peter A. Bengelsdorf

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

STATE OF NEW YORK
COUNTY OF NEW YORK

Subscribed and sworn to, before me, this 13th day of September, 2016.

Nelly M. Gomez-Ramirez
Notary Public/Justice of the Peace

Nelly M. Gomez-Ramirez
Notary Public State of New York
No. 01GO5005271
Qualified in Bronx County
Commission Expires 2/1/2019