

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 PITTSBURGH CORNING CORPORATION AND THE PITTSBURGH
CORNING CORPORATION ASBESTOS PERSONAL INJURY SETTLEMENT TRUST**

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 Pittsburgh Corning Corporation and The Pittsburgh Corning Corporation Asbestos Personal Injury Settlement Trust. 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 Pittsburgh Corning Corporation, as successor to Pittsburgh Corning Corporation, Debtor, in *In re Pittsburgh Corning Corporation*, No. 00-bk-22876(JKF) (Bankr. W.D. Pa) (“PCC”), and The Pittsburgh Corning Corporation Asbestos Personal Injury Settlement Trust (“Trust”) (collectively the “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 twenty-nine insurance policies to PPG Industries, Inc., or its predecessors, under which PCC is the insured for various periods between October 18, 1966 and July 1, 1985, and four insurance policies to Corning Glass Works under which PCC has claimed to be insured, a contention that the Liquidator and Home deny, for various periods from February 1, 1965 to February 1, 1974, all of which collectively, together with all other insurance policies Home may have issued and under which one or both Claimants might claim to be insured are defined collectively as the “Policies”. Settlement Agreement, first Whereas clause. PCC filed a proof of claim in the Home liquidation pertaining to asserted bodily injury claims which, together with any other proofs of claim hereinbefore or hereinafter filed by either or both Claimants in the Home liquidation, are referred to collectively as the “Proofs of Claim”. *Id.*, third Whereas clause.

4. Pursuant to PCC’s filing of a petition, captioned *In re Pittsburgh Corning Corporation*, No. 00-bk-22876(JKF) (Bank. W.D. Pa.), under Chapter 11 of the United States Bankruptcy Code, the United States Bankruptcy Court for the Western District of Pennsylvania confirmed, and the District Court affirmed, a Plan of Reorganization under which the Trust succeeds PCC’s rights under the Policies and the Proofs of Claim. Settlement Agreement, fourth and fifth Whereas clauses.

5. The Liquidator and the Claimants 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 ¶ 2.

6. The Settlement Agreement provides that the Liquidator will recommend allowance of the Proofs of Claim in the aggregate amount of \$5,000,000 (“Recommended Amount”) as a Class II priority claim under RSA 402-C:44 in favor of the Trust. Settlement Agreement ¶ 3(A). Allowance of the Recommended Amount as a Class II claim will fully and

finally resolve the Proofs of Claim and all claims the Claimants have under the Policies. Id. ¶ 3(B). Distributions based on that allowance will be made to the Trust at the same intervals and at the same percentages as distributions to other Class II creditors of Home. Id. ¶ 3(C).

7. The Settlement Agreement is intended to resolve the Proofs of Claim and all claims that the Claimants have under the Policies. See Settlement Agreement ¶ 3(B). To that end, the Settlement Agreement provides for mutual releases of all claims among the Liquidator, Home, and the Claimants arising from or related to the Proofs of Claim or the Policies.

Id. ¶¶ 4, 5.

8. In resolving all of the Claimants' 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 Claimants ever had, now have, or hereafter may have in the Policies and the Proofs of Claim, including any asserted rights of third-party claimants against the Claimants under the Policies. See Settlement Agreement ¶ 7. 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 the Claimants had no insurance coverage from Home by virtue of the Policies.¹ Id.

9. The Liquidator is not aware of any third party claimants asserting claims under the Policies. However, the denial of any third party claimants' claim, without prejudice to their claims against the Claimants, will not harm the third party claimants, whose claims have been channeled to the Trust and who will continue to have their claims against the Trust. As noted above, the Claimants have agreed to address these claims as if there had been no liquidation

¹ The Claimants have also agreed to use best efforts to amend Schedule N to the confirmed PCC Plan of Reorganization to add the Settlement Agreement to the list of settlement agreements, thus including Home and the Liquidator as "Protected Parties" under the Plan if and when requested to do so by the Liquidator. Claimants will not seek to obtain a bankruptcy court injunction pursuant to the Settlement Agreement that would preclude Corning from asserting claims under insurance policies issued by Home to Corning Glass Works. Settlement Agreement ¶ 6.

proceeding against Home and as if Home had no insurance coverage under the Policies, Settlement Agreement ¶ 7, although payment of these claims can only be made in accordance with the bankruptcy plan and Trust. Third party claimants' proofs of claim against the insolvent Home, if not denied with the agreement, would release the Claimants 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 Claimants are responsible for any third party claimants' claims against them. Id. ¶ 7.

10. The Liquidator is not aware of any proofs of claim asserting a claim to the same 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 ¶ 9.

11. 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 Claimants. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$5,000,000 settlement amount as a Class II claim of the Trust 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 19 day of April, 2017.

Peter A. Bengelsdorf

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

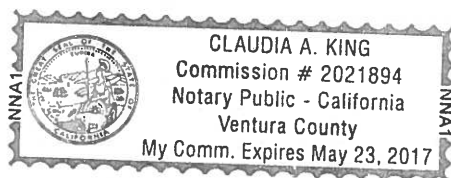
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA
COUNTY OF VENTURA

On April 19, 2017 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