

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 LIQUIDATOR'S EIGHTH MOTION FOR APPROVAL
OF DISPOSAL OF CERTAIN RECORDS**

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 Eighth Motion for Approval of Disposal of Certain Records. The facts and information set forth below 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. As set forth in the Liquidator's seven earlier motions for approval of disposal of certain records filed November 24, 2004, July 15, 2005, July 3, 2008, February 16, 2011, July 29, 2011, December 10, 2013, and June 18, 2015, along with the Liquidator's motion for approval to dispose of imaged records filed in January, 2005, the Home estate has numerous documents that are no longer needed, and it continues to incur significant expense to store the documents. The Liquidator accordingly has sought approval of the Court to dispose of categories of documents that the Liquidator has determined are no longer useful.

3. Pursuant to RSA 402-C:50 and the Liquidator's motions, the Court has authorized disposal of certain categories of records by Orders Approving the Disposal of Certain Records

entered December 16, 2004, August 12, 2005, August 19, 2008, May 2, 2011, November 10, 2011, January 30, 2014, and June 24, 2015, and the Order Approving Disposal of Imaged Records entered February 17, 2005. The Order Approving Disposal of Imaged Records provided that the Liquidator may dispose of papers records where imaged copies are stored on Home's computer system. Pursuant to these orders, liquidation staff has disposed of over 95,000 boxes of documents as of September 1, 2017. Nonetheless, approximately 82,000 boxes remain in storage with off-site vendors (principally Iron Mountain), in addition to the boxes stored at the liquidation offices. The annual cost of storing the records with off-site vendors is approximately \$377,000 per year, and disposal of even part of the boxes in off-site storage would result in significant savings.

4. The present motion requests authority to dispose of records that are not useful, including 10,362 boxes of records in storage at Iron Mountain. Under the Liquidator's contract with Iron Mountain, it presently costs an average of approximately \$4.60 per year to store a box. Accordingly, disposal of the boxes at Iron Mountain will save the Home estate approximately \$47,665 per year.

5. The contents of the boxes at Iron Mountain that are the subject of this motion are functionally inaccessible because there are no useful inventories for the boxes. As noted in the Liquidator's Fourth Motion for Approval of Disposal of Records (February 16, 2011), prior to Home's liquidation, many boxes of files were sent to storage without being inventoried beyond a general description of the types of files in the box. The time and expense that would be required to retrieve the boxes from storage and inventory them to create a file by file inventory would be significant, and it would be an unnecessary expenditure of Home estate assets. In the absence of inventories, the boxes of documents are not useful. The Court approved the disposal of two

categories of uninventoried files in the order entered May 2, 2011. This motion requests approval to dispose of additional categories of records that cannot reasonably be accessed and so are not useful.

6. Field office policies. The first category of boxes at issue are 3,795 boxes stored at Iron Mountain and coded as “Field Office Policies”. Prior to its liquidation in 2003, Home generally maintained copies of policies both at its home office and at the field office involved in placing the policies. The Liquidator requested approval to dispose of field office copies of policies in his Second Motion for Approval of Disposal of Certain Records (July 15, 2005), and the Court approved that disposal by the order entered August 12, 2005. The Liquidator disposed of the field office copies where they could be identified as duplicates of home office copies. During 2016, liquidation staff made a significant effort to match field office copies of policies with home office copies so as to dispose of more boxes of unnecessary files. In connection with that exercise, staff found that the field office policies in these 3,795 boxes could not be identified either from Home’s policy database or Iron Mountain’s electronic records system, Iron Mountain Connect. The box numbers are identified as field office policies in Home’s box database, reflecting that the boxes come from Home’s various field offices. However, the policies are not inventoried in the policy database nor in Iron Mountain Connect, so the contents of the boxes cannot be determined.

7. Neither Home’s electronic records systems nor Iron Mountain’s electronic records system contain inventories of the contents of the 3,795 boxes. While Home’s records do include imaged copies of paper box transmittals from some of the boxes, the scanned images are not searchable. These paper lists are not uniform in content, varying by page, with some including handwritten notes. The only way for liquidation staff to determine what policies are in these

boxes would be either to manually input the lists (which contain thousands of pages and may be incomplete) into the computer system or to retrieve the boxes from Iron Mountain and have staff manually review their contents and create an inventory. The cost to retrieve boxes and then return them to storage under the current Iron Mountain contract is \$3.76 per box for a total of \$14,269 for this category of boxes. This does not include costs of shipping the 3,795 boxes. In light of the experience with inventorying boxes underlying the Fifth Motion described below, I believe the out-of-pocket costs and the significant expenditure of liquidation staff time that would be required to create inventories of thousands of boxes is not an appropriate use of limited Home estate resources. However, without usable inventories, the contents of the boxes is functionally unknown and the records are not useful. In light of the annual cost of approximately \$17,457 to store these boxes, the Liquidator requests authority to dispose of them. The Liquidator also requests authority to dispose of any additional boxes of uninventoried field office policies which may be identified in the future.

8. Closed claims. The second category of boxes are 6,457 boxes stored at Iron Mountain and coded as "Closed Claims". The Liquidator previously moved for authority to dispose of closed claim files with no activity for specified periods, unless they were involved in a pending dispute or proof of claim, in the Liquidator's Third Motion for Approval of Disposal of Certain Records (July 3, 2008). The Court approved the disposal of such closed claim files, except those that relate to pending or anticipated litigation, by order entered on August 19, 2008. Liquidation staff subsequently found that some of the boxes being disposed of pursuant to that order contained uninventoried files. After attempting to prepare new inventories for a number of boxes, I determined that retrieving, inventorying, and returning the boxes to storage was too time consuming and expensive to be warranted. The Liquidator accordingly moved for authority to

dispose of boxes of claim files based upon existing inventories, even though they may be incomplete, in the Liquidator's Fifth Motion for Approval of Disposal of Certain Records (Closed Claim Files) (July 29, 2011). The Court approved that request by order entered November 10, 2011.

9. Liquidation staff has now identified 6,457 boxes of closed claim files that have no functional inventories. Neither Home's electronic records systems nor Iron Mountain Connect contain any inventories of the contents of the boxes. As there is no electronic inventory of the boxes, liquidation staff is unable to conduct an electronic search to locate a particular file, and the files are of no use to the Home liquidation.

10. Liquidation staff has located copies of paper transmittals for thousands of boxes, some of which may pertain to the 6,457 boxes here. However, the boxed records are functionally inaccessible without an electronic inventory. The thousands of pages of paper transmittals, many of which have been imaged, were created by the claim offices and departments prior to March 2003, when the Home proceeding was filed. The detail of the transmittals is limited and varied, and they are not searchable electronically. The only way to determine what files are in these boxes would be to retrieve the boxes from Iron Mountain and have staff manually review their contents and create an inventory. The cost to retrieve boxes and then return them to storage under the current Iron Mountain contract is \$3.76 per box for a total of \$24,278 for this category of boxes. This does not include shipping costs. In light of the experience with inventorying boxes underlying the Fifth Motion described above, I believe the out-of-pocket costs and the significant expenditure of liquidation staff time that would be required to create inventories of thousands of boxes is not an appropriate use of limited Home estate resources. However, without inventories, the contents of the 6,457 boxes is unknown and

the records are not useful. In light of the annual cost of approximately \$29,702 to store these boxes, the Liquidator requests authority to dispose of them. The Liquidator also requests authority to dispose of any additional boxes of uninventoried closed claim files which may be identified in the future.

11. General Counsel's Office and State Filing Department. The third category consists of 110 boxes of pre-liquidation files. Liquidation staff's review of the General Counsel's Office box list at Iron Mountain has identified 51 boxes for which there are no box inventories at Home or at Iron Mountain. Iron Mountain's system only provides high level, incomplete descriptions of the boxes' contents (e.g., "Litigation" or "Regulatory"). Review of the State Filing Department's box list at Iron Mountain has identified 59 boxes for which there are no box inventories. Iron Mountain's system only provides high level, incomplete descriptions of the boxes' contents (e.g., "State Files AL – NY 1978" or "Bills 1977-1978"). The State Filing Department was responsible for form and rate filings with state insurance departments. I believe the costs of retrieval and return of the 110 boxes to Iron Mountain and the expenditure of staff time to inventory the boxes would be an inappropriate use of the Home estate's limited assets. Without inventories, the records are not useful. In light of the annual costs of storing these boxes, the Liquidator requests authority to dispose of them. The Liquidator also requests authority to dispose of any additional boxes of uninventoried General Counsel's Office or State Filing Department files which may be identified in the future.

12. Employee correspondence and general subject files. The final category of files are employee correspondence files and general subject files. The Liquidator previously requested authority to dispose of such files dating from before 1995 in the Liquidator's First Motion for Approval of Disposal of Certain Records (November 24, 2004), which was granted

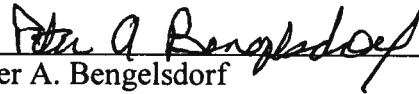
by order issued December 16, 2004. The Liquidator requested that authority be extended to files dating from before March 2003 in the Liquidator's Third Motion for Approval of Disposal of Certain Records (July 3, 2008), which was granted by order issued August 19, 2008.

13. The Liquidator now requests authority to dispose of such files dating to the present and in the future where the employee determines that the files are no longer useful. Employee correspondence files and general subject files do not include files concerning particular proofs of claim, and in any event, the Liquidator will retain any such files that are involved in a pending or anticipated dispute or proof of claim. Most of these files are stored at the Home liquidation's offices in New York, New York. The Liquidator has given up part of the New York office space as of December 31, 2017. As part of the effort to reduce the amount of files to be stored in the limited office space, the Liquidator requests authority to dispose of unnecessary files instead of paying to store them at Iron Mountain.

14. Recommendation. I believe that the uninventoried boxes of field office policies, closed claim files, and General Counsel's Office and State Filing Department files discussed above are not useful, and that employee correspondence files and general subject files are not useful when the employee so determines. The Liquidator accordingly recommends and requests approval to dispose of them pursuant to RSA 402-C:50.¹ The Liquidator will retain any employee correspondence files or general subject files that concern pending proofs of claim or pending or anticipated disputes.

¹ Certain parties to litigation in California and Minnesota have requested that the Liquidator retain any files concerning the claimant companies that are plaintiffs in those actions. See Liquidator's Supplemental Filing Concerning Fourth Motion for Approval of Disposal of Certain Records (March 18, 2011). Further, certain insurers asserting contribution claims have requested that the Liquidator retain records concerning claims asserted by specified policyholders. To the best of the Liquidator's knowledge, none of the records that are the subject of this motion fall in these categories.

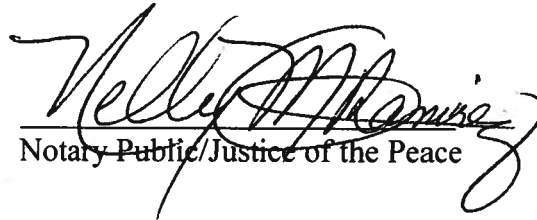
Signed under the penalties of perjury this 20th day of September, 2017.



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 20th day of September, 2017.



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