

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 JOHN R. ELIAS, LIQUIDATOR,
IN SUPPORT OF APPROVAL OF 2019 COMPENSATION PLANS**

I, John R. Elias, hereby depose and say:

1. I am the Insurance Commissioner of the State of New Hampshire and Liquidator (“Liquidator”) of The Home Insurance Company (“Home”). I submit this affidavit in support of the Liquidator’s Motion for Approval of 2019 Compensation Plans (“Motion”). 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. The Motion concerns the approval of compensation plans for Home’s key employees in 2019 (the “2019 Employee Compensation Plan”) and for Peter A. Bengelsdorf, the Special Deputy Liquidator of Home (the “Special Deputy Liquidator”) (the “2019 Special Deputy Plan”) (collectively, the “Plans”). The Plans are based on compensation plans originally proposed and approved in 2004 and, subject to changes over time, proposed and approved in each subsequent year. The Motion reflects the advice of Ernst & Young LLP (E & Y), experienced insurance industry compensation consultants, concerning the appropriate compensation structure for the Special Deputy Liquidator and key employees of Home.

3. Home operated internationally and specialized in affording complex forms of insurance to large enterprises. The liquidation of Home, with total estimated undiscounted claims of \$4 billion, is one of the largest and most complex insurer liquidations ever conducted. Due to the sophisticated nature of Home's insurance products, operations, and supporting reinsurance programs, an experienced and stable senior liquidation staff operating under the management of a well-qualified and competent Special Deputy Liquidator will materially contribute to the efficient collection of assets and adjudication of claims. This objective can be facilitated through the alignment of compensation plans with the interests of creditors.

4. Maximizing the prompt collection of assets advantages Home's creditors and is one of the principal statutory goals of the liquidation. The success of liquidation staff and the Special Deputy Liquidator in that regard is illustrated by the increase in Home's liquid assets from the day the Order of Rehabilitation was entered, approximately \$12.7 million as of March 2003, to an estimated \$902 million of unrestricted liquid assets as of August 31, 2018. (The August 31, 2018 figure is net of the \$513.6 million of interim distributions to Home's policy-level creditors, \$256.0 million of early access distributions to guaranty associations, and \$80.6 million of Class I distributions to guaranty associations for their administration expenses.) Most of this increase is attributable to a combination of reinsurance recoveries and other financial settlements negotiated by the Special Deputy Liquidator and Home's experienced staff.

5. The Special Deputy Liquidator was recruited from private industry and appointed to manage the operations of the liquidation.¹ The Special Deputy Liquidator is a consultant to the Liquidator, not an employee of Home. E & Y categorizes his responsibilities as a combination of those performed in a "healthy" insurance company by a chief executive officer

¹ The Special Deputy Liquidator also served as Special Deputy Commissioner during Home's rehabilitation.

and chief operating officer. The terms of his engagement are described in a June 11, 2003 Consulting Agreement which was approved by the Court on June 30, 2003 (the "Consulting Agreement"). The Consulting Agreement remains in effect until terminated.

6. The Special Deputy Liquidator is engaged by the Liquidator pursuant to the June 11, 2003 Consulting Agreement. We have consulted with E & Y to assist in devising and evaluating a compensation program for the Special Deputy Liquidator. The overall compensation framework for the Special Deputy Liquidator has been designed to align incentives for the Special Deputy Liquidator with liquidation goals. Specifically, at various times since the beginning of Home's liquidation compensation to the Special Deputy Liquidator has included base compensation, an annual incentive bonus, and a "Stay Bonus".

7. The Special Deputy Liquidator's base compensation was calculated on an hourly basis from 2003 through 2011 at the rate of \$250 per hour. This structure was modified in 2012 such that the Special Deputy Liquidator's hourly rate was increased to \$285 and subjected to a cap of \$600,000. The \$600,000 cap was maintained in 2013 but the program was further modified with the Special Deputy Liquidator receiving equal monthly payments of \$50,000 throughout the year. In the event he worked fewer than 2,100 hours, the Special Deputy Liquidator's "Stay Bonus" was to be reduced in an amount equal to the shortfall in hours multiplied by a \$325 hourly rate. The hourly target was reduced to 2,000 in 2014 and 1,850 in 2015. In all years, the Special Deputy Liquidator has worked for significantly more hours than the relevant annual target. The hourly rate and target would be unchanged in 2019.

8. The annual incentive bonus was reduced in stages from \$400,000 (2004) to \$50,000 (2014) before being eliminated in 2015.

9. The final portion of the Special Deputy Liquidator's compensation, the "Stay Bonus", provides a cash incentive to this senior and experienced insurance industry executive and encourages him to remain with the liquidation. The "Stay Bonus" is payable on or after December 18, 2019 contingent upon his staying through 2019. Pursuant to his compensation plans from 2004 through 2014, the Special Deputy Liquidator received a "Stay Bonus" of \$400,000 (adjustable, since 2013, as discussed above in subparagraph 7). The "Stay Bonus" has since been reduced to \$325,000 for 2015, \$300,000 for 2016, \$250,000 for 2017 and \$225,000 for 2018. The Stay Bonus is unchanged for 2019.

10. Prior to 2008, the annual incentive bonus and "Stay Bonus" had been annual. Though negotiated and agreed upon each year, they were not always submitted and approved before January 1 of the applicable year. This left a gap between the end of the performance year and the effective date of the next year's plan, creating substantial risk to the Special Deputy Liquidator and his estate in the event of his death or disability during the interim. In order to avoid such unintended consequences, after 2008 the annual incentive bonus and "Stay Bonus" remained in effect, subject to annual review and approval, until termination or disapproval by the Court.²

11. Consistent with the objective of minimizing costs as the liquidation process continues, the Special Deputy Liquidator's total compensation has been reduced by more than one third from inception through 2018. Each of these reductions has been made at the request of the Special Deputy Liquidator.

² In the event of the Special Deputy Liquidator's death or disability, the Stay Bonus will be paid in full. In the event the Special Deputy Liquidator is terminated without cause or the Special Deputy Plan is terminated or not renewed, the Stay Bonus will be pro-rated.

12. The proposed 2019 Special Deputy Plan is described in the E & Y letter and has two primary objectives. First, it recognizes the Special Deputy Liquidator's role as top executive of the Home liquidation operation. Although an independent contractor, the Special Deputy Liquidator works at least the hours of a full time employee and, because he is responsible for Home's day-to-day operations he has more responsibility than any employee or other executive of Home. Second, the plan is intended to provide the Special Deputy Liquidator with compensation consistent with competitive market positioning in relation to Home's current executive team.

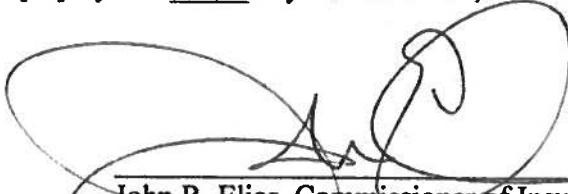
13. The base compensation proposed in the 2019 Special Deputy Plan is unchanged from 2018 -- \$600,000 payable in equal monthly installments with a target of 1,850 hours worked. The 2019 Special Deputy Plan also includes a Stay Bonus of \$225,000 (the same amount as in 2018). As in prior years, any shortfall in hours would be deducted at the rate of \$325/hour from the "Stay Bonus" otherwise payable to the Special Deputy Liquidator.

14. E & Y evaluated the 2019 Special Deputy Plan in comparison with market levels. Importantly, E & Y notes that the Special Deputy Liquidator is a consultant to the Liquidator and not an employee of Home. Accordingly, the Special Deputy Liquidator does not participate in the incentive compensation plans for key employees of Home nor does he receive any health and welfare, retirement, or severance benefits from Home. As an independent contractor, he pays the full Social Security tax (employer and employee share) on his compensation. E & Y therefore estimates that the actual value of the \$600,000 base compensation available to the Special Deputy Liquidator is equivalent to an employee's salary of \$480,000. E & Y advises that the total direct compensation (adjusted base compensation plus "Stay Bonus") represented by the 2019 Special Deputy Plan is significantly less than competitive compared to the market median

(50th percentile). Total cash compensation without adjustment, however, is competitive to the market median. In conclusion, E & Y reports that the proposed 2019 Special Deputy Plan acknowledges the importance of the Special Deputy Liquidator to the liquidation and encourages a continuation of that relationship.

15. Without the adoption of these plans the liquidation effort would be harmed because key employees would seek better, more long-term career opportunities elsewhere while the services and experience of the Special Deputy Liquidator might be lost.

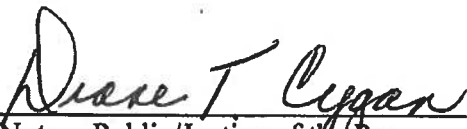
Signed under the penalties of perjury this 30th day of November, 2018.



John R. Elias, Commissioner of Insurance of
the State of New Hampshire, solely as
Liquidator of The Home Insurance Company

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

Subscribed and sworn to, before me, this 30th day of November, 2018.



Diane T. Cygan
Notary Public/Justice of the Peace
Commission Expires 3/21/2023