

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 VIACOMCBS INC.**

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 ViacomCBS Inc. 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 ViacomCBS Inc., successor to Westinghouse Electric Corporation ("Claimant"), 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 four policies to Westinghouse Electric Corporation for various periods between January 1, 1976 and January 1, 1986 which, together with all other insurance

policies Home may have issued to Westinghouse Electric Corporation are referred to collectively as the “Westinghouse Policies”. Settlement Agreement, second Whereas clause.

4. Claimant submitted four proofs of claim in the Home liquidation seeking coverage in connection with liability arising out of asbestos and toxic tort bodily injury exposures which, together with any other proofs of claim hereinbefore or hereinafter filed by Claimant in the Home liquidation, are referred to collectively as the “Westinghouse Proofs of Claim”. Settlement Agreement, third Whereas clause. Three of the proofs of claim have previously been resolved, one by two \$4 million allowances approved by the Court on November 13, 2006 and October 31, 2008, respectively (the “Westinghouse Prior Allowances”) and two by disallowances approved by the Court on December 2, 2008. *Id.*, fourth Whereas clause. The Settlement Agreement does not alter these determinations. *Id.*

5. Claimant also submitted a proof of claim under workers’ compensation policies issued to Westinghouse Electric Corporation. That proof of claim was resolved by a \$275,407.00 allowance approved by the Court on November 16, 2015 (the “Workers Compensation Allowance”). That determination is not altered by this Settlement Agreement. Settlement Agreement, fifth Whereas clause.

6. A subsidiary of ViacomCBS Inc., CBS Operations Inc., submitted proofs of claim under seventeen policies issued to entities other than Westinghouse Electric Corporation. Those proofs of claim were resolved by a settlement agreement including a \$7 million allowed amount approved by the Court on May 5, 2016 (the “CBS Operations Allowance”). That allowance is not altered by this Settlement Agreement. Settlement Agreement, sixth Whereas clause.

7. The Liquidator and the Claimant have negotiated the Settlement Agreement reflecting a resolution of the remaining claims and all matters concerning the Westinghouse

Proofs of Claim and their rights and obligations with respect to the Westinghouse Policies. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 1.

8. The Settlement Agreement provides that the Liquidator will recommend allowance of the Westinghouse Proofs of Claim in the amount of \$5,244,128 (the “Recommended Amount”) as a Class II priority claim under RSA 402-C:44. Settlement Agreement ¶ 2(A).<sup>1</sup> Allowance of the Recommended Amount as a Class II claim will fully and finally resolve the Westinghouse Proofs of Claim and all claims the Claimant has under the Westinghouse Policies. Id. ¶ 2(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. ¶ 2(C).

9. The Settlement Agreement is intended to resolve the Westinghouse Proofs of Claim and all claims that the Claimant has under the Westinghouse Policies. Settlement Agreement ¶ 2(B). To that end, the Settlement Agreement provides for mutual releases of all claims among the Liquidator, Home, and the Claimant arising from or related to the Westinghouse Proofs of Claim or the Westinghouse Policies. Id. ¶¶ 3, 4. The Claimant’s release does not release further distributions on the Westinghouse Prior Allowances, the Workers Compensation Allowance, or the CBS Operations Allowance. Id. ¶ 3.

10. In resolving all of the Claimant’s claims relating to the Westinghouse Proofs of Claim and the Westinghouse Policies, the Settlement Agreement is intended to resolve all matters arising out of or relating to any rights the Claimant ever had, now has, or hereafter may have in the Westinghouse Policies and the Westinghouse Proofs of Claim, including any asserted

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<sup>1</sup> The Recommended Allowance is in addition to the Westinghouse Prior Allowances, the Workers Compensation Allowance, and the CBS Operations Allowance. Settlement Agreement, ¶ 2(C).

rights of third-party claimants against the Claimant under the Policies. Settlement Agreement ¶5. The Claimant agrees to address, at its sole cost, any such claims of third-party claimants against the Claimant as if there had been no liquidation proceeding for Home and as if the Claimant had no insurance coverage from Home by virtue of the Westinghouse Policies. Id. The Claimant also agrees to indemnify and hold the Liquidator and Home harmless from all claims arising from or relating to the Westinghouse Proofs of Claim or the Westinghouse Policies, including asserted rights of third party claimants up to the amount ultimately distributed or distributable in relation to the Recommended Amount. Id.

11. The Liquidator is not aware of any third party claimants asserting claims under the Westinghouse Policies. However, the denial of any third party claimants' claims without prejudice to their claims against the Claimant will not harm the third party claimants, who will continue to have their claims against the Claimant. As noted above, the Claimant has agreed to address these claims as if it had no insurance coverage from Home under the Westinghouse Policies. Settlement Agreement ¶ 5. Third party claimants' proofs of claim against the insolvent Home, if not denied with the agreement, would release the Claimant from those claims up to the limits of the Westinghouse 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 Claimant is responsible for any third party claimants' claims against it. See Settlement Agreement ¶ 5.

12. The Liquidator is not aware of any proofs of claim asserting a claim subject to the same policy limit as the Westinghouse Proofs of Claim 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. See Settlement Agreement ¶ 6.

13. The Settlement Agreement reflects a compromise of the claims asserted in the Westinghouse 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 Westinghouse Policies respecting the underlying liabilities of the Claimant. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$5,244,128 settlement amount as a Class II claim of Claimant in accordance with RSA 402-C:45 and RSA 402-C:44.

14. 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 15 day of May, 2020.

*Peter A. Bengelsdorf*

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

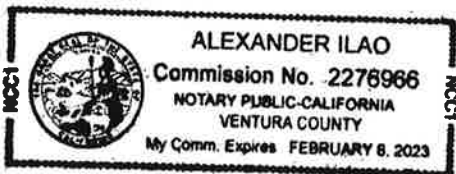
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF VENTURA

On May 15, 2020 before me, Alexander Ilao, 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 *Alexander Ilao*  
Signature of Notary Public