

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
THIRD AMENDMENT TO NEW YORK LEASE**

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 Third Amendment to New York Lease. 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 of the Third Amendment of Lease (“Third Amendment”) between the Liquidator and RXR 61 Broadway Owner LLC (“Landlord”). The Third Amendment is attached as Exhibit A to the motion. The Third Amendment is subject to approval by the Court. Third Amendment § 16.

3. Home had its principal offices in New York City for decades before it was placed in liquidation in 2003. In 2003, Home’s offices occupied several floors of a large skyscraper at 59 Maiden Lane, New York, New York. The Liquidator sought to reduce lease expense in light of the needs of the liquidation as compared to Home in run-off. In 2010, the Liquidator

negotiated a new lease for significantly less space in the pre-World War II building at 61 Broadway, New York, New York.

4. The Liquidator moved for approval of the Agreement of Lease dated March 29, 2010 (“Lease”) between the Liquidator and 61 Broadway Owner LLC for space at 61 Broadway on April 5, 2010. The Court approved the Lease on April 21, 2010. The original leased space totaled approximately 24,000 square feet consisting of the entire sixth floor and certain basement space at 61 Broadway. The Lease has an expiration date of January 31, 2026. It was subject to certain options to reduce space and an option to extend the term of the lease for an additional five years if notice to extend is provided by January 31, 2025.

5. As the liquidation has progressed, the Liquidator’s need for space for operations and storage has decreased. Accordingly, the Liquidator has exercised options to reduce the space occupied by the Home liquidation. The Liquidator exercised one option by an Amendment to Lease dated May 24, 2017 and another by the Second Amendment of Lease dated January 11, 2021. Under the Lease, as amended by these two amendments, the Home liquidation presently occupies approximately 7,949 square feet at 61 Broadway consisting of a portion of the sixth floor and certain ancillary basement space.

6. During the pandemic, the liquidation staff and consultants for the most part transitioned to working remotely from home. They continue to work remotely. Only a few staff are regularly in the office. The office space provides for meetings, the work by the few staff routinely in the office, and records, and it holds the liquidation’s computer servers and related information technology operations.

7. The Lease includes an option for the Liquidator to extend the Lease for an additional five years, from January 31, 2026 to January 31, 2031, if notice to extend is provided by January 31, 2025. Given the progress of the liquidation and the reduced need for office space

in the current remote work environment, I do not believe it appropriate to extend the lease for the existing space for the additional five years. However, I believe it would be desirable to continue to have space at 61 Broadway for a lesser period after the expiration of the current lease on January 31, 2026.

8. The Landlord has advised the Liquidator that, due to the office real estate market in New York City and an outstanding loan on 61 Broadway, the Landlord and the lender need flexibility to terminate the Lease to allow for potential other plans for the building.

9. In the circumstances, the Landlord and the Liquidator have agreed on the Third Amendment to Lease to extend the Lease for a period while providing both the Landlord and the Liquidator with some flexibility concerning termination of the Lease.

10. The Third Amendment is a negotiated result acceptable to both the Liquidator and the Landlord. It is subject to approval by the Court. Third Amendment § 16.

11. The Third Amendment provides for an extension of the Lease at least until August 1, 2027 and, if not terminated at that point by the Landlord, provides both the Liquidator and the Landlord with the ability to terminate the Lease on six months' notice. The Lease, as amended by the Third Amendment, will expire on January 31, 2031 if it has not been previously terminated.

12. The Third Amendment achieves this by providing for an extension of the Lease to January 31, 2031 subject to rights to terminate. Section 2 provides for the extension to January 31, 2031, and the rights to terminate are set forth in Section 7.

13. Section 7(a) provides each of the Liquidator and the Landlord with the option to terminate the Lease on any date on or after August 1, 2027 on six months' prior written notice. Section 7(b) provides the Landlord with the option to terminate the Lease any time between August 1, 2026 and August 1, 2027 on six months' prior written notice. If the Landlord

exercises this second termination option, however, the Liquidator may elect to give a notice of partial retention. In that case, the Liquidator may remain in a retained portion of the space which includes the computer room and a meeting space until August 1, 2027, and the Landlord will provide Home with substitute storage space in the building rent free in lieu of the basement space. The Landlord has also agreed to relocate Home's records from the basement to the substitute storage space at Landlord's cost. Third Amendment § 7(b)(I). In the event the liquidation space is so reduced, the rent will be reduced to 26.96% of the rent for the existing space. Third Amendment § 7(b)(III).

14. The practical effect of the Third Amendment is to allow the liquidation's critical Information Technology operations to remain at 61 Broadway for 18 months after the existing Lease would expire without extending the Lease for five years after the existing Lease would expire. Relocating the computer equipment at the expiration of the existing Lease on January 31, 2026 would be a significant expense. Under the Third Amendment, the liquidation operations can remain in the existing 61 Broadway space until at least August 1, 2026 (six months longer than under the existing Lease) and can remain in the critical parts of the existing space until at least August 1, 2027 (18 months longer than under the existing Lease) without exercising the existing option to extend until January 31, 2031. Assuming that the Lease has not been terminated as of August 1, 2027, the Liquidator and the Landlord can then each choose to terminate the Lease on six months' notice. The Liquidator has thus obtained an 18-month extension of the key liquidation operations, and potentially more if needed, without binding the estate to pay for five years as under the existing Lease option.

15. During the extended period, the liquidation operation will continue to reduce in number and to dispose of records so that less space will be necessary in the future. The liquidation's Information Technology team will continue to prepare to transition the remaining

records needed for the conclusion of the liquidation from the existing computer servers to a smaller PC environment with reduced size and posing fewer maintenance demands. I anticipate that, if there is a need to relocate after August 1, 2027, the costs of the move will be significantly less than if the move were to occur at the expiration of the existing Lease on January 31, 2026. Similarly, the cost of relocating and new space for the computer operation will be reduced.

16. The economic terms under the Third Amendment are materially the same as those under existing Lease. The Third Amendment continues the rent and terms of the Lease as of the scheduled expiration at January 31, 2026 subject to a 2% annual increase commencing February 1, 2026. Third Amendment § 3. In the event the Landlord terminates the Lease and the Liquidator elects to retain only reduced space, the rent will be reduced to 26.96% of the rent for the existing space. Third Amendment § 7(b)(III).

17. I anticipate that by the termination of the Lease, as amended by the Third Amendment, the liquidation will be able to operate on a remote basis with space to be let on a month-to-month basis or other short-term rental when needed. I have experience with such arrangements, as the New Hampshire office has operated in month-to-month rental space for the past several years. In addition, the Landlord has advised, if the need should arise, that there is space available in other Landlord owned buildings.

18. I recommend approval of the Third Amendment as fair and reasonable and as in the best interests of the liquidation of Home. I believe it is fair and reasonable in that (a) it provides a negotiated extension of the Lease for an additional 18 months and potentially for longer depending on the liquidation's needs without requiring the exercise of the existing 5-year extension, and (b) it continues the economic terms of the existing Lease forward with only the 2% adjustment for inflation. I believe it is in the best interest of the liquidation and its creditors because the negotiated extension will minimize disruption to the liquidation and permit the

continued reduction of the liquidation operations so that less space will be required if and when the liquidation operation needs to move.

Signed under the penalties of perjury this 9TH day of October, 2024.

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 October 9, 2024 before me, Jaymee Whitlock, Notary Public personally appeared Peter A. Bengelsdorf, 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 Jaymee Whitlock
Signature of Notary Public

