

**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**

**LIQUIDATOR'S MOTION TO AMEND  
ORDER APPROVING RETURN OF EXCESS COLLATERAL**

David J. Bettencourt, Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), hereby moves that the Court enter an order amending the Order Approving Return of Excess Collateral dated October 14, 2021 by deleting the requirement that the Liquidator obtain a release from the policyholder and the direction concerning the handling of unclaimed collateral. As reasons therefor, the Liquidator states as follows:

1. As described in the Liquidator's Motion for Approval of Return of Excess Collateral filed September 3, 2021, the Liquidator holds collateral as security for policyholders' or reinsurers' obligations to Home under deductible reimbursement, retrospective premium or captive reinsurance agreements. That collateral is to be returned when the Liquidator concludes that all the obligations of the policyholder or reinsurer to Home have been satisfied and the Liquidator does not anticipate having any further claims against the policyholder or reinsurer secured by the collateral. Affidavit of Peter A. Bengelsdorf in Support of Motion to Amend Order Approving Return of Excess Collateral ("Bengelsdorf Aff.") ¶ 2.

2. The Court allowed the Liquidator's motion in the Order Approving Return of Excess Collateral dated October 14, 2021 ("Order"). A copy of that Order is attached as Exhibit A. Bengelsdorf Aff. ¶ 3.

3. Release. The Order Approving Return of Excess Collateral established an orderly process for the return of collateral. One requirement of the Order was that the policyholder provide the Liquidator with a satisfactory release of all claims under the Home policies and contracts involved in the deductible reimbursement, retrospective premium or captive reinsurance arrangement. *See* Order ¶¶ 2, 3. Bengelsdorf Aff. ¶ 4.

4. The Liquidator has been obtaining the required release in returning collateral under the Order. However, the requirement of a release is no longer necessary, and it is creating difficulties in the resolution of certain of the remaining collateral agreements. Bengelsdorf Aff. ¶ 5.

5. The release requirement is no longer necessary because the Court established the Claim Amendment Deadline of January 26, 2023. Now that the Claim Amendment Deadline has passed, policyholders can no longer assert new claims against Home. *See* Order Approving Claim Amendment Deadline ¶ 5 (issued January 28, 2021, affirmed August 12, 2022, effective August 29, 2022). Once any claims pending at the Claim Amendment Deadline are resolved, the policyholder is barred from asserting further claims. Prior to the Claim Amendment Deadline, the required release served to prevent such claims. In light of the Claim Amendment Deadline, a release is no longer necessary. Bengelsdorf Aff. ¶ 6.

6. The release requirement is also presenting a potential obstacle to resolution of certain contracts concerning collateral. In some cases, for instance, a policyholder may have resolved all its claims in the Home liquidation that are covered by collateral, but it may have ongoing claims under Home insurance policies being handled by guaranty associations. The policyholder would reasonably not wish to execute a release that would relinquish rights under Home policies for claims being handled by guaranty associations. Bengelsdorf Aff. ¶ 7.

7. The Liquidator accordingly requests that the Court modify the Order to permit the return of collateral without the necessity of obtaining a release from the policyholder.

Bengelsdorf Aff. ¶ 8.

8. Unclaimed collateral. The Order also provides a process for the Liquidator to contact policyholders to whom collateral is to be returned. Order ¶ 4. The last sentence of the paragraph directs the Liquidator to handle unclaimed excess collateral in accordance with RSA 402-C:47, I. *Id.* However, since requesting the Order, the Liquidator has noted that § 47 concerns unclaimed funds “subject to distribution”. The excess collateral is not part of Home’s general assets subject to distribution under RSA 402-C:44. Accordingly, the Liquidator also requests that the Court modify the Order to remove the last sentence of Paragraph 4.

Bengelsdorf Aff. ¶ 9.

WHEREFORE, the Liquidator respectfully requests that this Court:

- A. Grant this Motion to Modify Order Approving Return of Excess Collateral;
- B. Enter an Order in the form submitted herewith modifying the Order Approving Return of Excess Collateral (1) to permit returning collateral without the necessity of a release from the policyholder, and (2) remove the direction concerning unclaimed excess collateral; and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

DAVID J. BETTENCOURT,  
INSURANCE COMMISSIONER OF THE  
STATE OF NEW HAMPSHIRE, SOLELY  
AS LIQUIDATOR OF THE HOME  
INSURANCE COMPANY,

By his attorneys,

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March 20, 2024

**Certificate of Service**

I hereby certify that a copy of the foregoing Liquidator's Motion to Modify Order Approving Return of Excess Collateral, the Affidavit of Peter A. Bengelsdorf, and the Proposed Order, were sent this 20<sup>th</sup> day of March, 2024, by first class mail, postage prepaid to all persons on the attached service list.

/s/ Eric A. Smith  
\_\_\_\_\_  
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**STATE OF NEW HAMPSHIRE**

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**SUPERIOR COURT**

**In the Matter of the Liquidation of  
The Home Insurance Company  
Docket No. 217-2003-EQ-00106**

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# **EXHIBIT A**



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

~~[PROPOSED]~~

ORDER APPROVING RETURN OF EXCESS COLLATERAL

On consideration of the motion of Christopher R. Nicolopoulos, Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), for an order approving the return of excess collateral and the supporting Affidavit of Peter A. Bengelsdorf, it is hereby found and ORDERED as follows:

1. The Liquidator's Motion for Approval of Return of Excess Collateral is granted;
2. The Liquidator shall return collateral funds held as security for policyholders' or reinsurers' obligations to Home under deductible reimbursement, retrospective premium, or captive reinsurance agreements when the Liquidator concludes that all obligations of the policyholder or reinsurer to Home secured by the collateral have been satisfied and does not anticipate having any further claims against the policyholder or reinsurer that are secured by the collateral; provided, however, that as a condition to return of this "excess" collateral the policyholder must first provide the Liquidator with a satisfactory release of all claims under the Home policies and the contracts involved in the deductible reimbursement, retrospective premium or captive reinsurance arrangements;
3. The Liquidator shall terminate, release or return letters of credit, bonds, trust accounts, or other items held as security for policyholders' or reinsurers' obligations to Home under deductible reimbursement, retrospective premium, or captive reinsurance agreements when the Liquidator concludes that all obligations of the policyholder or reinsurer to Home secured by the collateral have been satisfied and does not anticipate having any further claims against the policyholder or reinsurer secured by the collateral; provided, however, that as a condition to return of this "excess" collateral the policyholder must first provide the Liquidator with a satisfactory release of all claims under the Home policies and the contracts involved in the deductible reimbursement, retrospective premium or captive reinsurance arrangements.
4. When the Liquidator determines that a return of collateral is appropriate as described above, the Liquidator shall notify the policyholder that posted the collateral by mail

and by email (if an email address is available) at the last known address reflected in the Home liquidation records. If the policyholder does not respond, the Liquidator shall conduct a reasonable internet search for a current address and again attempt contact by mail and, if an email address is available, by email. If the policyholder cannot be located through this process, the Liquidator shall turn over unclaimed excess collateral funds to the New Hampshire State Treasurer in accordance with RSA 402-C:47, I, before the liquidation closes.

So Ordered.

Dated:

10/14/21

Presiding Justice

A handwritten signature in black ink, appearing to be "C. B. J.", written over a horizontal line. The signature is stylized and cursive.