

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 TO AMEND ORDER APPROVING
RETURN OF EXCESS COLLATERAL**

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 to Amend Order Approving Return of Excess Collateral (“Motion”). 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. 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.

3. The Court allowed the Liquidator's Motion for Approval of Return of Excess Collateral in the Order Approving Return of Excess Collateral dated October 14, 2021 ("Order"). A copy of that Order is attached as Exhibit A to the Motion.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

Signed under the penalties of perjury this 19 day of March, 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 March 19, 2024 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
Signature of Notary Public

Alexander Ilao

