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 FIFTH INTERIM DISTRIBUTION TO CLAIMANTS WITH ALLOWED CLASS II CLAIMS

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 for the State of New Hampshire, as Liquidator ("Liquidator") of Home. I submit this affidavit in support of the Liquidator's Motion for Approval of Fifth Interim Distribution to Claimants with Allowed Class II Claims. 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 Liquidator's principal goals in this liquidation are to determine claims and collect assets for the ultimate purpose of distributing assets to the creditors of Home. While there are more claims to determine and assets to collect, the Liquidator believes that it is presently reasonable to make a fifth interim distribution of five (5) percent on Class II claims that have been allowed by the Court. This fifth interim distribution would bring the total interim distribution percentage to forty-five (45) percent. Such a distribution would permit creditors with allowed policy-related priority claims to receive a percentage payment of their claims while

reasonably reserving assets to provide for future, equivalent distributions to claimants whose claims have not yet been addressed.

3. The Liquidator has previously made four interim distributions totaling 40% to Class II creditors. The fourth interim distribution was approved by order dated August 16, 2023. Since that time, the Liquidator has continued to determine claims and collect remaining assets. As the January 26, 2023 Claim Amendment Deadline has passed, no further claims can be submitted.

4. Since the Claim Amendment Deadline, the liquidation team has preliminarily reviewed all submissions, finally determined the claims of all but one of the insurance guaranty associations, and finally determined or settled many of the remaining policyholder claims. In light of the Claim Amendment Deadline, the resolution of claims, and the available assets, the Liquidator now believes it reasonable and prudent to make a fifth interim distribution of 5% to creditors with allowed Class II claims. The Liquidator accordingly moves for approval of the proposed fifth interim distribution pursuant to RSA 402-C:46, I.

5. Home is a New Hampshire domiciled insurance company incorporated in 1973, although its predecessor corporations were established as long ago as 1853. Home and its subsidiaries (most of which were merged into Home in 1995) wrote insurance and reinsurance in all states and some territories of the United States, as well as in Canada, the United Kingdom, Bermuda and Hong Kong. Home and its subsidiaries generally stopped writing personal lines business in the early 1990's, and they stopped writing all business, including commercial lines (subject to certain personal lines mandatory renewal requirements), in 1995.

6. By Order of Liquidation entered June 13, 2003, the Court declared Home insolvent and appointed the Insurance Commissioner as Liquidator to liquidate the company pursuant to the Insurers Rehabilitation and Liquidation Act, RSA 402-C ("Act").

7. The Liquidator is charged with (a) marshaling and liquidating the assets of Home; (b) investigating and evaluating claims to determine the liabilities of Home and make recommendations for allowance to the Court; and (c) with Court approval, distributing assets to the policyholders, insureds, third party claimants and other creditors of the Home estate (collectively, "claimants"), all in accordance with the provisions of the Act.

8. As described in the Liquidator's reports, liquidation staff under my supervision have been investigating, negotiating and determining claims and filing reports of claims and recommendations with the Court. As of June 30, 2024, the Liquidator has presented and the Court has approved claim recommendations, including settlements, for Class II proofs of claim with a total allowed amount of $3.29 billion, an increase of $301 million over the Class II determinations of $2.989 billion as of June 1, 2023 referred to in the motion for approval of the fourth interim distribution. The number of remaining open Class II proofs of claim for insureds and claimants and guaranty associations decreased from 739 at June 1, 2023 to 518 at June 1, 2024. (The Court-approved claim determinations for all priority classes as of June 1, 2024 totaled approximately $3.7 billion.)

9. Liquidation staff under my supervision have also been collecting assets, in particular reinsurance. As a result of these efforts, the Liquidator has approximately $492 million in unrestricted liquid assets under his control as of June 30, 2024.

10. With Court approval, the Liquidator has made eleven Class II early access distributions to insurance guaranty associations totaling approximately $266 million as of June 1, 2024.[1] As described in the motions for approval of the eleven early access distributions, these

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[1] This total is the amount distributed by the Liquidator after application of the deductions and caps provided for in the orders approving the early access distributions plus certain transfers of assets whose value is subject to claw back.

distributions are subject to "claw back" agreements required by RSA 402-C:29, III, under which the guaranty associations will return early access distributions if necessary to pay claims of claimants with claims in the same or a higher priority class. Certain states took control of special deposits made by Home as a condition of doing business in order to secure its obligations to certain creditors in those states. The remaining available deposits now total approximately $16 million.

11. With Court approval, the Liquidator has also made four interim distributions totaling 40% on allowed Class II claims. The Court approved the initial 15% interim distribution in an Order issued March 13, 2012, as amended July 2, 2012 ("First Distribution Order"); the 10% second interim distribution in an Order issued November 16, 2015, as amended on March 7, 2016 ("Second Distribution Order"); the 5% third interim distribution in an Order issued October 18, 2018 ("Third Distribution Order"); and the 10% fourth interim distribution on August 16, 2023 ("Fourth Distribution Order"). The Distribution Orders provide that the Liquidator is to make these distributions to subsequently allowed Class II claims after each December 31 and June 30.

12. The First and Second Distribution Orders provided that the distributions were subject to receipt of a waiver of federal priority claims from the United States. The United States provided a waiver with respect to the first interim distribution on November 5, 2014 and a waiver with respect to the second interim distribution on July 18, 2016.

13. The third interim distribution was also subject to receipt of a waiver of federal priority claims. The Liquidator entered a Release Agreement with the United States in conjunction with a Settlement Agreement between the Federal Claimants and the Liquidator. Those two agreements were approved by the Court by Order dated March 26, 2019, and other conditions were satisfied on April 10, 2019, thereby making the Settlement Agreement and the

Release Agreement effective. The Release Agreement provided the necessary waiver of federal priority claims allowing the third interim distribution and subsequent distributions to proceed.

14. In light of the Release Agreement, the Liquidator did not need to seek a waiver of federal priority claims respecting the fourth interim distribution and does not need to seek a wavier respecting the fifth interim distribution.

15. As of June 30, 2024, the Liquidator has made a total of $988 million in interim distributions to non-guaranty association claimants with allowed Class II claims and guaranty associations with allowed Class II claims in excess of those on which early access was calculated. In accordance with the Distribution Orders, the Liquidator has also deemed a total of $244 million of the $266 million in early access distributions to guaranty associations to be permanent distributions on allowed Class II claims that are no longer subject to "claw back."

16. The Claim Amendment Deadline has been established to move this proceeding toward closure and protect the interests of the creditors with allowed Class II claims. The Liquidator filed a Motion for Approval of Claim Amendment Deadline on August 1, 2019. The Court issued orders approving a Claim Amendment Deadline dated January 28, 2021 ("CAD Orders"). An objector, Zurich Insurance Company, German Branch, pursued an interlocutory appeal, and the New Hampshire Supreme Court issued its Opinion affirming the CAD Orders on August 12, 2023. The Court issued its mandate on August 29, 2022, and the January 28, 2021 Order Approving Claim Amendment Deadline became effective that day. The Order Approving Claim Amendment Deadline established the Claim Amendment Deadline as the date 150 days from the date of the Order, or January 26, 2023.

17. Since the Claim Amendment Deadline has passed, the Liquidator is not accepting new claims.

18. I believe that in light of the Claim Amendment Deadline barring new claims, sufficient assets have been collected and sufficient claims determined to warrant making a fifth interim distribution of 5% on allowed and subsequently allowed Class II claims. Together with the previously approved interim distributions totaling 40%, this would result in a total proposed interim distribution of 45%. As with the previous interim distributions, the Liquidator bases his request on the assets and amounts that may be credited against claims, the projected Class I expenses of liquidation, and the estimated unpaid Class II liabilities. Each of these elements is addressed below.

19. I believe it is reasonable and prudent to base an interim distribution on assets held by the Liquidator and amounts that may be credited against claims. As of June 30, 20204, these consist of $492 million of unrestricted liquid assets held by the Liquidator, the $988 million previously distributed as interim distributions to non-guaranty association claimants (insured's and third-party claimants) and to guaranty associations whose claims exceed those on which early access was calculated, the $266 million in early access distributions previously paid to guaranty associations, and the $16 million held by states as special deposits. A total of $1.762 billion is thus available to the Liquidator for potential distribution to claimants or, in the case of prior distributions and deposits, to be applied by the Liquidator against the claims of claimants.[2]

20. While the Liquidator will collect some reinsurance in the future, I believe it is not reasonable or prudent at this point to base a distribution on potential collections because of the

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[2] As noted on Exhibit 1, on July 25, 2024, the Liquidator paid approximately $38 million as the first through forth interim distributions on claims approved between January 1, 2024 and June 30, 2024. This reduced the unrestricted liquid assets from those at June 30, 2024. However, this has no effect on the calculation of the fifth interim distribution percentage because it just moves the $38 million from unrestricted liquid assets to prior distributions, both of which constitute assets in the calculation.

significant uncertainties over future recoveries. Those uncertainties include, but are not limited to: (a) the timing of any collection, which depends on the timing of the determination of the underlying loss and case reserves and the billing and payment of reinsurance; (b) the present value discount involved; (c) the offsets available to reinsurers; (d) potential defenses to reinsurance coverage for particular claims or types of claims; (e) potential changes in the law; and (f) the possibility that reinsurers may themselves become insolvent or subject to restrictions on payments.

21. I similarly believe it would not be reasonable or prudent at this point to base a distribution on future investment returns. Future income on investments is subject to significant uncertainties, including, but not limited to, the timing and magnitude of interest rate changes by the United States Federal Reserve and the amount and timing of distributions and liquidation expenses.

22. Any potential distribution must reflect a reserve for the Liquidator's projected Class I administration costs and the Class I claims of guaranty associations. The priority statute requires that adequate funds be retained to pay all Class I costs before any distribution may be made to succeeding priority classes. RSA 402-C:44. The Liquidator's expenses are designated as Class I administration costs in RSA 402-C:44, I, while the guaranty associations' claim expenses in handling claims are accorded the same priority by RSA 404-B:11, II. The guaranty associations' expenses were addressed as part of the resolution of their claims (only one guaranty association's claim remains open). I conservatively estimate that the Class I costs of the Home liquidation will total approximately $45 million over the remaining life of the Home estate, with an added $15 million contingence reserve.

23. In order to assure equal treatment for all Class II claimants, including those with unresolved claims, any potential distribution must provide for all Class II obligations of Home

even though some have not yet been determined. The evaluation of Home's potential Class II liabilities is a complex and challenging task requiring significant expertise. The Liquidator engaged the Milliman actuarial consulting firm to estimate the unpaid direct obligations of Home with respect to its insurance policies in connection with the first and second interim distributions. Milliman provided the Liquidator with its June 18, 2015 Roll-Forward Analysis of Unpaid Loss and ALAE as of June 13, 2003 and December 31, 2014 (the "Milliman Report"). The Milliman Report estimated Home's unpaid loss and allocated loss adjustment expense ("ALAE") and mapped those projected liabilities to the applicable priority classes.

24. The Milliman Report did not anticipate or consider the effect of a claim amendment deadline in cutting off post-claim amendment deadline claims and potential claims.

25. The Milliman Report's Executive Summary set forth Milliman's "actuarial Central Estimate" of Home's unpaid Class II liabilities as of December 31, 2014. The actuarial Central Estimate is an estimate of the expected value over a range of reasonably possible outcomes and is most properly viewed as the average of a wide range of possible outcomes. Milliman's actuarial Central Estimate of Class II unpaid loss and ALAE was $4.034 billion.

26. The Executive Summary included a confidence level table with estimates of the unpaid Class II loss and ALAE at higher confidence levels. This reflected the possibility that Home's Class II liabilities might exceed the actuarial Central Estimate, which is a point in a range of reasonably possible outcomes.

27. To provide for unresolved claims, the Liquidator used estimates of Home's Class II liabilities at the 95% confidence level in setting the first and second interim distributions and the 90% confidence level for the third interim distribution. In light of the passage of time, the shrinking body of unresolved claims, and the Claim Amendment Deadline cutting off additional claims and potential claims, the actuarial analysis of the Milliman Report has been

increasingly inapplicable. It was not given much weight in connection with the fourth interim distribution. It is even less applicable now in light of the greatly reduced number of remaining claims.

28. In the circumstances, I believe that the most reasonable way to evaluate the potential liabilities of the estate is to consider the amount of Class II claims allowed to date, the Liquidator's conservative reserves for remaining Class II claims, and to add a substantial contingency reserve. I conservatively estimate the total of these factors as $3.782 billion.

29. As of June 30, 2024, the Court had allowed Class II claims, including settlements, totaling approximately $3.29 billion. I have added $492 million in reserves and contingency for a Class II total of $3.782 billion.

30. Based on the foregoing, and after careful review and consideration of the circumstances, the Liquidator seeks approval to make a fifth interim distribution of 5% for a total interim distribution of 45%. The assets ($1.762 billion) less the projected Class I expenses and contingency ($60 million) all divided by the estimated Class II liabilities and contingency ($3.782 billion) produces a potential distribution percentage of 45%, which after subtracting the previous interim distributions totaling 40% results in a potential fifth interim distribution of 5%. The calculation of the fifth interim distribution percentage is set forth on Exhibit 1 to the motion.

31. I believe the proposed fifth interim distribution percentage is consistent with the mandate of RSA 402-C:46, I, to protect claimants with undetermined claims. It uses reserves and adds a substantial contingency to address the risk that the ultimate Class II liabilities may exceed reserve estimates.[3] After allowing for the fourth interim distribution amount paid in July

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[3] Because of the reduced number of pending claims that remain to be negotiated or otherwise resolved, the Liquidator does not believe it appropriate to further disclose reserve and contingency amounts.

2024, the Liquidator will hold approximately $312 million after the fifth interim distribution is paid on the allowed Class II claims as of June 30, 2024.

32. There is also the possibility, with respect to a Home policy with aggregate limits, that the individual claims allowed respecting that policy could over time exceed those limits. In such a case, claim allowances related to that policy would then need to be reduced, as required by RSA 402-C:40, IV, on a pro rata basis to adjust the total of such allowances to the aggregate policy limits. This presents a potential risk, for such policies, that the allowed amounts on which a distribution is based might later be reduced. However, liquidation staff is tracking claims against policies, and there presently are only a small number of policies that the Liquidator believes might be affected. Further, the allowances involving policies with aggregate limits to date are generally settlement agreements with policyholders that include indemnities against third party claims.

33. The 5% fifth interim distribution percentage will result in an additional distribution amount of approximately $165 million. However, an actual cash distribution will only be made to the holders (the claimants or their assignees) of allowed Class II non-guaranty association claims and also to the guaranty associations that have allowed Class II claims in excess of those on which early access was calculated. The guaranty associations that have already received early access distributions amounting to 45% percentage on their claims as ultimately determined will not receive additional distributions at this time. Instead, a $23 million portion of the early access distributions paid to guaranty associations will be deemed permanent distributions no longer subject to claw back. The actual cash distributed will thus total approximately $142 million.

34. Since the interim distribution percentage reflects a reserve for future Class II liabilities, the Liquidator also seeks approval to make a 5% fifth interim distribution on Class II

claims that are allowed after the fifth interim distribution is approved. The Liquidator will make the fifth interim distribution to all claimants with allowed Class II claims as of the last day of the month in which the distribution is approved. The Liquidator will make the fifth interim distribution after that "record date." The Liquidator will make the interim distribution on subsequently allowed Class II claims after each December 31 and June 30 with respect to claims allowed during the preceding six months.

35. In accordance with RSA 402-C:44, the first $50 of the allowed amount on each claim will be deducted from the claim (except for guaranty association claims), and the distribution will be calculated by applying the fifth interim distribution percentage to the remaining amount.

36. Since the Liquidator has recently sent distribution checks to the claimants who will receive the fifth interim distribution either as part of the fourth interim distribution in October, 2023 or based on a subsequent claim allowance, I do not believe it necessary at this time to follow the procedure for confirming the name and address of the payee described in the Liquidator's Report Regarding Process for Interim Distribution dated November 12, 2014.

37. The Liquidator, with assistance of the investment management firm Conning, invests the assets of the estate in accordance with the Fourth Revised Statement of Investment Policy approved by the Court on September 10, 2012. Those guidelines provide maximum asset allocations for single issuers and for asset classes as a percentage of Home's total portfolio. The fifth interim distribution is expected to be approximately $142 million based on allowed Class II claims as of June 30, 2024. Additional amounts will be distributed on subsequently allowed Class II claims, and distributions will also be made on allowed Class I claims.

38. Distributions of the size contemplated here may result in the remaining portfolio being temporarily out of compliance with certain of the investment policies. The Liquidator

generally holds investments to maturity. Conning estimates that, based on the portfolio as of July 31, 2024, assuming a distribution of $150 million, and anticipating maturities, interest and paydowns through early September, the remaining portfolio would have seven deviations from the investment policies involving (1) the 65% maximum allocation for corporate bonds, expected to cure by December 31, 2024, (2) the 1.8% maximum municipal bonds per state for one state, expected to cure by August 1, 2025, (3) the 0.50 per issuer limit on municipal bonds for two issuers, expected to cure by August 1, 2025, (4) the 2.0% per issuer limit on AA rated bonds for one issuer, expected to cure by July 13, 2025, (5) the 1.25% per issuer limit for A rated bonds for eighteen issuers, with fifteen expected to cure by December 31, 2025 and three to remain out of compliance past 2025, (6) the 0.50 per issuer limit for BBB rated bonds for seven issuers, five expected to cure by March 31, 2025 and the remainder by September 30, 2025, and (7) the 0.25% per issuer limit for BB rated bonds for one issuer, expected to cure by January 15, 2025. The actual deviations and time for curing non-compliance with investment guidelines will not be known until after the actual distribution occurs.

39. I do not view these anticipated temporary deviations from the investment policy as material, as most of them will be cured in 2025. I am comfortable that the portfolio will continue to be invested reasonably and prudently. However, once a distribution occurs, any deviations are likely to continue beyond the 90-day period provided in the investment policy for bringing the portfolio into compliance. The Liquidator accordingly requests authority for the temporary deviations in the motion and the proposed order.

Signed under the penalties of perjury this 22 day of August, 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 8/22/2024, 2024 before me, Linda Vint 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.

Linda Vint
COMMISSION #2483355
NOTARY PUBLIC • CALIFORNIA
VENTURA COUNTY
Commission Expires March 25, 2028

Signature Linda Vint
Signature of Notary Public