

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

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 )  
 IN THE MATTER OF THE WINDING DOWN OF: )  
 )  
 THE NEW HAMPSHIRE MEDICAL MALPRACTICE )  
 JOINT UNDERWRITING ASSOCIATION )  
 )  
 \_\_\_\_\_ )

No. 217-2015-CV-00347

**AFFIDAVIT OF PETER A. BENGELSDORF,  
 SPECIAL DEPUTY COMMISSIONER, IN SUPPORT OF  
 APPROVAL OF REVISED INVESTMENT GUIDELINES**

I, Peter A. Bengelsdorf, depose and say:

1. I was appointed Special Deputy Commissioner of the New Hampshire Medical Malpractice Joint Underwriting Association (“NHMMJUA”) by Roger A. Seigny, Insurance Commissioner for the State of New Hampshire, as Receiver (“Receiver”) of the NHMMJUA. I submit this affidavit in support of the Receiver’s Motion for Approval of Revised Investment Guidelines. 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. In the motion, the Receiver seeks approval of revised investment guidelines for the NHMMJUA. A copy of the revised investment policy statement (the “Revised Investment Guidelines”) is attached as Exhibit A to the motion.

3. The NHMMJUA’s fixed income investment portfolio has been managed by Deutsche Investment Management Americas, Inc. (“Deutsche”), pursuant to investment

guidelines. The investment guidelines were most recently revised in May 2012. They contemplated that the NHMMJUA would be an ongoing entity with a long time horizon.

4. On July 20, 2015, a statute concerning the winding down of the NHMMJUA became effective. On July 22, 2015, the Order of Rehabilitation for the NHMMJUA pursuant to the Act was entered.

5. Since that time, the Receiver has consulted with Deutsche as to the best strategy to maximize income and preserve capital in the circumstances. The NHMMJUA has a limited future in light of the Act and the present proceeding to wind down the NHMMJUA. Further, the interest rate environment is highly uncertain but rates are expected to rise in the not too-distant future.

6. In these circumstances, Deutsche has recommended that the Receiver shorten the duration of the portfolio by, among other things, selling certain long term bonds. The Receiver has directed Deutsche to invest current cash (excess investment income left after expenses and claim needs) and the proceeds of maturing investments in bonds with durations of six to nine months.

7. The May 2012 investment guidelines did not permit investments with an issue quality rating below A3 as rated by the nationally recognized statistical rating organization Moody's. However, on July 22, 2015, approximately 9% of the NHMMJUA portfolio consisted of investments with a rating of Baa1 or lower (including three bonds with ratings below Baa3<sup>1</sup>) because of downgrades to investments that had the required ratings when first purchased. The NHMMJUA had authorized Deutsche to continue holding these investments. Deutsche has recommended against selling these investments given the effect of the downgrades on price and

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<sup>1</sup> These three bonds together had a total book value of \$385,000 as of July 27, 2015.

its favorable views of the prospects that the investments will pay in full. The Receiver has authorized Deutsche to continue holding these investments.

8. The proposed Revised Investment Guidelines attached as Exhibit A to the motion were prepared by Deutsche in consultation with the Receiver. Under the proposed Revised Investment Guidelines, the investment objectives of the NHMMJUA and Receiver continue to be liquidity to meet cash disbursements; preservation of income and capital; and earning a competitive rate of return against appropriate benchmarks. See Revised Investment Guidelines, Statement of Objectives at 2.

9. The Revised Investment Guidelines seek to achieve these objectives by applying overall investment duration and quality requirements (see Table A of the Guidelines); concentration limitations on the percentage of the total portfolio that can be comprised of certain broad types of investments (see Table B); and asset class diversification requirements limiting (i) the percentage of the portfolio that can be comprised of investments of any one issuer in any single asset class and (ii) the percentage of the portfolio that can be comprised of investments in any one asset class (see Table C). The Revised Investment Guidelines place percentage limitations on issuer and asset classes based on investment quality as evaluated based on ratings assigned by the nationally recognized statistical rating organizations Moody's and Standard & Poor's.

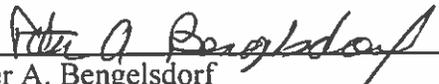
10. The proposed Revised Investment Guidelines are generally consistent with the investment guidelines of May 2012. The principal difference is that the Revised Investment Guidelines allow up to 10% of the portfolio to be invested in investments rated Baa1-Ba3, including up to 4% which may be rated Ba1-Ba3. Where Moody's and Standard & Poor's differ in rating a particular security, compliance will be evaluated based on the lower rating (not, as

previously, the higher rating). These changes reflect the actual portfolio existing at the beginning of the receivership and are expected to permit the portfolio to earn a slightly better return than otherwise while maintaining the NHMMJUA's generally conservative approach to preservation of capital. The proposed Revised Investment Guidelines continue to prohibit investments not specifically permitted. See Section C of the Guidelines.

11. The proposed Revised Investment Guidelines are recommended by Deutsche, and I believe they are consistent with a prudent and conservative investment policy.

12. For the reasons described above, I believe that the Revised Investment Guidelines are fair and reasonable and in the best interests of the winding-down of the NHMMJUA.

Signed under the penalties of perjury this 11 day of September, 2015.

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

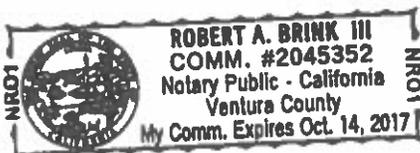
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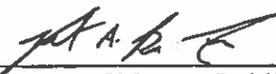
STATE OF CALIFORNIA  
COUNTY OF VENTURA

On September 11<sup>th</sup>, 2015 before me, Robert A. Brink III, 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