

*Proposed Plan of Reorganization of American Mutual Insurance Company of Boston*

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**ORDER APPROVING THE PROPOSED PLAN OF REORGANIZATION OF AMERICAN  
MUTUAL INSURANCE COMPANY OF BOSTON**

**Introduction and Procedural History**

The Permanent Receiver for American Mutual Insurance of Boston (“AMI”), Commissioner Julianne Bowler, filed a proposed plan of reorganization (the “Plan”) with the Division of Insurance (“Division”) on December 8, 2005. The reorganization of a mutual company into a stock company is governed by M.G.L. c. 175, §19F to 19W, the Mutual Company Holding Law (“MCHL”). Section 19H sets forth the requirements for the approval of a reorganization plan. The matter was docketed as F2005-02, and Amma A. Kokro, Esq., and Elisabeth A. Ditomassi, Esq., Deputy Commissioner and General Counsel, were designated as presiding officers. A notice of public hearing on the Plan was issued on November 17, 2005, and published thereafter in the *Boston Globe* and *The Standard*, an insurance industry publication.

The notice stated that the purpose of the hearing was to consider the Plan adopted by the Permanent Receiver of AMI. The hearing took place on December 19, 2005 at the Division, and addressed the fairness of the terms and conditions of the Plan, the reasons and purposes for the reorganization of AMI, and whether the reorganization was in the best interest of AMI and was not detrimental to the insuring public.

Ms. Ditomassi and Ms. Kokro presided at the hearing. Commissioner Bowler recused herself from presiding over the hearing and from participating in any part of the decision because she is the Permanent Receiver for AMI. She authorized Deputy Commissioner Ditomassi to act as the presiding officer and to sign the final order.

J. David Leslie, Esq., of Rackemann, Sawyer & Brewster, represented the Commissioner of Insurance in her capacity as Permanent Receiver of AMI. He provided a brief background of the Plan and the sale of AMI's insurance company charter and license to Liberty Mutual Group, Inc. ("Liberty Mutual"). In short, AMI was declared insolvent and all of its policies of insurance were canceled in 1989. Accordingly, AMI currently has no policyholders, members, or corporate board. The proposed Plan reorganizes AMI into a stock insurance company and provides for the sale of its stock to Liberty Mutual, which will re-capitalize the company and recommence its operations under a different name. The consideration from the sale, and all of AMI's assets and liabilities, are transferred into a liquidating trust.

The Supreme Judicial Court approved the Plan on November 1, 2005 and issued an order which created a liquidating trust through which all claims against AMI, from any source, were directed. Claims against AMI for its pre-sale obligations were permanently enjoined. Liberty Mutual has no responsibility for these obligations. Mr. Leslie testified that Liberty Mutual and the Permanent Receiver for AMI had negotiated an acquisition agreement which conveyed to Liberty Mutual control of AMI's insurance company charter and license and the right to change AMI's name in exchange for \$125,000 consideration and \$20,000 for payment of the Permanent Receiver's costs of the transaction.

Michael Fallon, a Vice President of Liberty Mutual testified at the hearing and reiterated that Liberty Mutual entered into an acquisition agreement with the Permanent Receiver for AMI on July 29, 2005. The terms of the agreement were that: AMI would create a plan of reorganization based upon the MCHL; AMI would be transformed into a stock insurance company and a subsidiary of Liberty Mutual as delineated in §19T(a); AMI's name would be changed to Liberty Mutual Personal Insurance Company ("Liberty Mutual PIC") which would write automobile insurance; and as required under §19T(a), any policyholder of Liberty Mutual PIC after the reorganization would become a member of Liberty Mutual, with full equity rights. Liberty Mutual PIC will have Liberty Mutual reinsure one hundred percent of its underwriting. This will enable Liberty Mutual PIC to receive the same ratings from A.M. Best, Moody's, and

Standard & Poor's as Liberty Mutual Group, Inc. Mr. Fallon also testified as to the Plan's fulfillment of the requirements of §19H.

### **Discussion**

A plan of reorganization must demonstrate that it meets the following criteria in order to satisfy M.G.L. c. 175, §19H:

- 1) it is in the best interest of the reorganizing insurer;
- 2) it is fair and equitable to the insurer's policyholders;
- 3) it provides for the enhancement of the operations of the reorganizing insurer;
- 4) it will not substantially lessen competition in any line of insurance business; and, when completed, provides for the reorganized insurer's paid in capital stock to be in an amount at least equal to the minimum paid in capital stock and the net surplus required of a new domestic insurer upon its initial authorization to transact like kinds of insurance;
- 5) it is not detrimental to the insuring public; and
- 6) it complies with the requirements of M.G.L. c. 175, §§19F to 19W, inclusive.

Mr. Leslie testified that the approval of the Plan was in the best interest of AMI's creditors because the sale and resultant liquidating trust created would enrich AMI's estate with \$125,000. The creditors' claims will be paid out of the current assets and the liquidating trust. Furthermore, the Plan is fair and equitable, complies with all aspects of the MHCL, and is in AMI's best interest. Since AMI has no policyholders, there is no concern as to the requirement that the Plan be fair and equitable to this nonexistent group.

Mr. Leslie also testified as to the requirements of §19T (a). Once the reorganization is completed, AMI will be a domestic stock insurer and Liberty Mutual will have purchased at least fifty-one percent of its voting stock as required under §19T(a). AMI has no policyholders or board, so the portions of §19T(a) and §19H which refer to policyholders, members, and a corporate board are inapplicable with respect to this reorganization plan. However, in all other respects, Mr. Leslie affirmed that the statutory requirements had been met.

Mr. Fallon concurred with Mr. Leslie that all statutory requirements of §19F through §19W had been fulfilled. He agreed that the reorganization is in AMI's best interest because it:

enables AMI to recommence its insurance operations; provides new capital to AMI; and avails to AMI all the resources of Liberty Mutual. Even though AMI has no policyholders or members to be considered, the plan is fair and equitable, nonetheless. Since AMI is in receivership, it is not contributing to competition in any line of insurance, and therefore cannot substantially lessen competition in any sense. Furthermore, once the reorganization is completed, it will contribute to the marketplace by being another writer of automobile insurance in the Commonwealth. The insuring public will benefit because when AMI is reorganized, it will become Liberty Mutual Personal Insurance Company, add to the number of companies providing auto insurance, and thereby increase consumers' options for automobile insurance in the Commonwealth. AMI will also have the requisite quantity of capital stock and net surplus. Liberty Mutual has provided \$700,000 for paid in capital and \$3,600,000 for surplus, the minimal amounts deemed requisite for personal auto insurance business in the Commonwealth.

### **Findings**

Based upon the testimony and written submissions of Mr. Leslie and Mr. Fallon of Liberty Mutual:

1. I find that the requirements for filing the plan of reorganization as required under §19E have been met ;
2. I find that, in so far as they are applicable, the Plan satisfies the requirements of §19F through §19W;
3. I find that the Plan meets the requirements under §19T(a) for the conversion of a domestic mutual insurer into a domestic stock insurer;
4. I find that the Plan is in the best interest of the reorganizing insurer; is fair and equitable to the insurer's policyholders; is not detrimental to the insuring public; provides for the enhancement of the operations of the reorganizing insurer; will not substantially lessen competition in any line of insurance business; and, when completed, provides for the reorganized insurer's paid in capital stock to be in an amount at least equal to the minimum paid in capital stock and the net surplus required of a new domestic insurer upon its initial authorization to transact like kinds of insurance.

**Conclusion**

For the aforementioned reasons, the proposed plan of reorganization for American Mutual Insurance of Boston is approved.

**SO ORDERED.**

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Amma A. Kokro, Esq.  
Presiding Officer

**AFFIRMED.**

DATE: 12/29/05

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Elisabeth A. Ditomassi, Esq.  
Deputy Commissioner and General Counsel  
for the Division of Insurance

This decision may be appealed to Superior Court pursuant to G.L. c. 30A, § 14.