

**COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION  
DIVISION OF INSURANCE**

SUFFOLK, ss.

DOCKET NO. F2007-01

---

**IN THE MATTER OF THE ACQUISITION OF CONTROL OF  
AMERICAN EMPLOYERS' INSURANCE COMPANY BY  
SPARTA INSURANCE HOLDINGS, INC.**

---

**DECISION AND ORDER**

**I. Introduction**

On April 2, 2007, SPARTA Insurance Holdings, Inc., (the "Applicant" or "SPARTA"), together with certain shareholders of the Applicant (collectively referred to as "co-Applicants") submitted an application to the Massachusetts Division of Insurance ("the Division") on Form A pursuant to section 206B of Chapter 175 of the Massachusetts General Laws ("§ 206B") and 211 CMR 7.00, seeking approval of its plan to acquire control of American Employers' Insurance Company (the "Insurer" or "AEIC"), a Massachusetts domestic insurance company. SPARTA was formed under the laws of the state of Delaware as a limited liability company effective September 29, 2006 and formerly was known as SPARTA Insurance Holdings, LLC ("SPARTA LLC"). Pursuant to a Certificate of Conversion dated March 7, 2007 filed with the Secretary of State in Delaware, SPARTA LLC converted from a limited liability company to a corporation named SPARTA Insurance Holdings, Inc., under the General Corporation Law of the State of Delaware. SPARTA was formed for the purpose of acquiring and maintaining an insurance company subsidiary that will provide certain commercial lines insurance products.

The co-Applicants own, or will own, over 10% of the Applicant's stock, on an affiliated basis. They include Corsair Capital, L.L.C; Corsair III Management, L.P.; Corsair III Offshore Management, L.P.; Corsair III Financial Services Capital Partners, L.P.; and Corsair III Financial Services Offshore 892 Partners, L.P.; York Capital Management, L.P.; York Select, L.P.; York Select Unit Trust; York Investment Limited; York Select Domestic Holdings, L.L.C.; York Select Offshore Holdings, L.L.C; Dinan Management, L.L.C; York Offshore Holdings Limited; MTGLQ Investors, L.P.; MLQ, L.L.C.; and The Goldman Sachs Group, Inc.

SPARTA proposes to acquire control of AEIC through a Stock Purchase Agreement dated March 12, 2007, as amended, among the Applicant, as Purchaser, and Pennsylvania General Insurance Company ("Pennsylvania General"), a Pennsylvania insurance company, as Seller, and OneBeacon Insurance Company, ("OneBeacon"), a Pennsylvania insurance company, as guarantor. SPARTA intends to acquire all of the issued and outstanding capital stock of the Insurer under the terms of the Stock Purchase Agreement,

The proposed transaction is subject to the approval of the Commissioner of Insurance ("Commissioner") pursuant to § 206B. She is required under the statute to hold a public hearing on the proposed transaction at which the companies, any person to whom notice was sent, and "any other person whose interest may be affected ... have the right to present evidence, examine and cross-examine witnesses, offer oral and written arguments therewith, and ... conduct discovery proceedings ... ." § 206B(d)(2). Following the hearing, the Commissioner must approve the proposed transaction unless certain conditions exist that would prohibit such approval under § 206B(d).

## **II. Procedural History**

The Applicant submitted its "Form A Statement Regarding Acquisition Of Control Or Merger With Domestic Insurer American Employers' Insurance Company" ("Form A"), and accompanying exhibits to the Division on April 2, 2007, and submitted seven Amendments to the Form A to the Division between April 4, 2007 and May 25, 2007 (collectively the

"Application"). On June 25, 2007, the Financial Surveillance and Legal Units of the Division deemed the Applicant's Form A complete.

The Commissioner appointed Elisabeth Ditomassi, Esq., Deputy Commissioner and General Counsel of the Division, and Edward M. Phelan, Esq., Counsel to the Commissioner, to serve as co-Presiding Officers for the public hearing on the proposed transaction. Neither the Commissioner nor the Presiding Officers participated in the review or analysis of the proposed transaction prior to the hearing.

On June 25, 2007, the Commissioner issued a Notice of Hearing ("Notice") regarding the proposed transaction. The Division posted the Notice on its website on June 26, 2007 and the Notice was published in The Boston Globe, The Wall Street Journal, and The Standard between July 5, 2007 and July 13, 2007. The Notice scheduled a public hearing at the Division for July 17, 2007. The Notice offered an opportunity for any person whose statutory interests may be affected by the Form A proceedings, or to whom the Notice was sent, to submit a written notice of intent to participate at the hearing to the Division by July 13, 2007. The Notice also specified that all discovery proceedings were to be concluded by July 14, 2007. No person or entity filed a notice of intent to participate, or sought discovery in the proposed transaction. The Notice stated that information about the proposed transaction was available for inspection at the Division.

On July 17, 2007, the Presiding Officers conducted the public hearing. The following individuals testified at the hearing: James A. Fitzpatrick, Jr., of Dewey Ballantine LLP, counsel for the Applicant, George L. Estes III, Chairman and CEO of SPARTA, Thomas Kimball Brooker, Jr., Chief Investment Officer of Corsair Capital LLC ("Corsair Capital"), James E. Buckman, Vice Chairman of JDG Management Company (dba York Capital Management) ("York Capital"), Geoffrey P. Adamson, Vice President, Americas Special Situations Group of Goldman Sachs ("Goldman Sachs") and Robert Dynan, Deputy Commissioner for Financial Analysis of the Massachusetts Division of Insurance ("Division"). No one other than the parties and a working group from the Division appeared at the hearing seeking to participate. Furthermore, the Presiding Officers inquired as to whether any other interested parties were present at the hearing who wished to participate or to testify. No one responded to the inquiry.

George L. Estes III, SPARTA CEO, testified as to SPARTA's senior management team and its experience in business and the insurance industry. Mr. Estes described the proposed transaction as a stock purchase plan under which SPARTA would acquire all the issued and outstanding capital stock of AEIC. He also testified as to the purchase price and the arms-length negotiations that were conducted to determine such price. Mr. Estes stated that the acquisition of AEIC would be financed with the proceeds from a private placement of SPARTA common stock. In addition, Mr. Estes testified that the three Co-applicants are investors in SPARTA and each own, or will own, more than 10 percent of SPARTA's common stock. Mr. Estes stated that SPARTA's future plan for the Insurer is to recapitalize the Insurer and commence writing new business under its existing licenses. Mr. Estes testified that SPARTA's plan calls for the Insurer to underwrite commercial property and casualty insurance, commercial automobile, property, general liability and workers' compensation coverage in all U.S. jurisdictions where the Insurer is licensed, including Massachusetts. Mr. Estes stated that SPARTA intends to concentrate in two business segments of "alternative risk transfer" (hereinafter "ART") and "specialty" areas. Mr. Estes explained that the ART program will serve captive reinsurance companies with an emphasis in group, association or franchise, and agency while the specialty program will provide insurance coverage for insureds in homogenous groups that meet the Insurers' underwriting requirements. Mr. Estes stated that A.M. Best recently notified SPARTA that it would receive an A- rating. Finally, Mr. Estes testified as to each of the conditions itemized in § 206B(d)(1)(i)-(vii) which is discussed more fully in Part III.

Thomas Kimball Brooker, Jr., representing Corsair Capital, testified that he was a member of the team that reviewed the investment in SPARTA, including SPARTA's proposed acquisition of AEIC. Mr. Brooker stated that Corsair Capital invests exclusively in financial institutions including insurance companies and, as was disclosed in an Amendment to the Form A, prior to the closing of this acquisition, it will indirectly own approximately 31.6% of the voting securities of SPARTA. Mr. Brooker explained that Corsair decided to invest in SPARTA only after it conducted business due diligence of SPARTA and financial analysis of SPARTA, including presentations by management, a review of materials developed by SPARTA and third-party sources of information. For legal due diligence, Corsair Capital relied on work performed

by SPARTA and its legal counsel Dewey Ballantine LLP. Mr. Brooker testified that Corsair's investment analysis of SPARTA included the proposed acquisition and proposed business plan for the Insurer by SPARTA. Mr. Brooker testified that it was his belief that SPARTA's proposed business plan for the Insurer is prudent and that the Insurer would be managed by a competent team with relevant industry experience.

James E. Buckman, representing York Capital, testified that he was a member of the team that reviewed the investment in SPARTA, including SPARTA's proposed acquisition of AEIC. Mr. Buckman explained that York Capital is a hedge fund management company with approximately \$11.4 billion under management and that York Capital has extensive experience investing in companies in diverse industries including insurance companies. Mr. Buckman explained that York Capital had several meetings with officers of SPARTA and other potential investors in which the background and experience of the SPARTA management team, SPARTA's business plan, and the specific markets and lines of insurance SPARTA intended to pursue, were discussed at length. Mr. Buckman testified that York Capital's investment also included a review of financial information and projections provided by SPARTA, presentations by SPARTA management, as well as materials from third-party sources. For legal due diligence, York Capital relied on work performed by SPARTA and its legal counsel Dewey Ballantine LLP. Based on York Capital's meetings with SPARTA and its review of SPARTA's projected financial performance, SPARTA's proposed business plan, its management, an assessment of the markets and lines of insurance business it intended to pursue and the terms of the investment, York Capital committed to invest \$75 million in SPARTA equity through several of its investment funds. As disclosed in an Amendment to the Form A, collectively York Capital will, prior to the closing of this acquisition, indirectly own approximately 22.5% of the voting securities of SPARTA. Mr. Buckman testified that, since its initial investment, York Capital has had two representatives on SPARTA's board and is prepared to fund the balance of its investment commitment upon approval of SPARTA's acquisition of AEIC.

Geoffrey P. Adamson, representing Goldman Sachs, testified that he was a member of the team that reviewed the investment in SPARTA, including SPARTA's proposed acquisition of AEIC. Goldman Sachs is a leading global investment banking, securities and investment

management firm. Mr. Adamson testified that, Goldman Sachs, through its affiliate MTGLQ Investors, L.P. (“MTGLQ”), decided to invest in SPARTA after completing product and industry due diligence, business and operating due diligence as well as financial analysis and background checks of SPARTA. During this process, Mr. Adamson stated, Goldman Sachs relied on materials provided by SPARTA, presentations by SPARTA’s management team, as well as third-party sources of information. For legal due diligence, Goldman Sachs relied on work performed by SPARTA and its legal counsel Dewey Ballantine LLP and reviewed by Goldman Sachs’ legal counsel including Fried Frank Harris Shriver & Jacobson, LLP, LeBoeuf, Lamb, Greene & MacRae, LLP, and Cleary Gottlieb Steen & Hamilton, LLP. Mr. Adamson testified that, in the final analysis, investment in SPARTA had several investment merits including management’s track record of successfully starting and growing similar businesses; an attractive risk/return profile based on forecasted performance; and the strength of the business plan presented by management.

Mr. Adamson stated that, as disclosed in an Amendment to the Form A, Goldman Sachs, through its affiliate, MTGLQ directly will own 21.8 percent of SPARTA following the closing of this proposed transaction. MTGLQ is directly controlled by its general partner, MLQ, LLC (“MLQ”). Mr. Adamson further testified that Goldman Sachs holds a 99 percent limited partnership interest in MTGLQ and that Goldman Sachs controls MLQ through its ownership of 99 percent of the Class A shares of MLQ. As a result, Goldman Sachs is entitled to designate two of SPARTA’s directors. Mr. Adamson also provided testimony relevant to the statutory requirements under M.G.L. c. 175, § 206B, discussed more fully in part III, below.

Robert Dynan, Deputy Commissioner for Financial Analysis of the Division, testified that he and members of the Financial Surveillance and Legal units of the Division (the “Working Group”) reviewed the Form A and all amendments and exhibits related thereto including the amended Stock Purchase Agreement between the Applicant and the Seller. Mr. Dynan stated that the Working Group examined the proposed transaction in light of the legal standards articulated in M.G.L. c. 175, § 206B, which are discussed in detail below. Following an extensive evaluation of the proposed transaction and all supporting documentation, the Working

Group opined that no issues existed that would lead to an adverse determination under any of the statutory legal standards.

### **III. Analysis of the Proposed Transaction**

Pursuant to Massachusetts General Laws, chapter 175, section 206B (d)(1), the Commissioner “shall” approve the proposed transaction provided the statutory requirements are met. The Commissioner may disapprove the proposed transaction only if she finds that approval would result in any one of the conditions set forth in subsections (i) through (vii) of § 206B(d)(1). Those conditions are discussed in turn, as follows:

(i) after the change of control, the domestic insurer ...  
would not be able to satisfy the requirements for the  
issuance of a license to write the line or lines of  
insurance for which it is presently licensed

Section 206B(d)(1)(i) requires the domestic insurer, post-merger, to be able to satisfy the same licensing requirements as required for the writing of the lines of insurance currently written by the insurer. Mr. Estes testified that it was his belief that, after the proposed acquisition and recapitalization, that the Insurer would be able to satisfy the requirements for the issuance of a license to write the lines of business for which it is presently licensed. Specifically, Mr. Estes stated that SPARTA plans to recapitalize the Insurer and to commence writing new business using its existing licenses and any additional licenses that the Insurer may obtain. SPARTA's future plans for the Insurer include underwriting commercial property and casualty insurance, offering commercial automobile, property, general liability and workers' compensation coverage in all U.S. jurisdictions where the Insurer is licensed, including Massachusetts.

For these reasons, we conclude that subsection (i) of § 206B(d)(1) does not present an obstacle to approval of the proposed transaction.

(ii) the effect of the merger or other acquisition of  
control would be substantially to lessen  
competition in insurance in this commonwealth or  
tend to create a monopoly therein

Section 206B(d)(1)(ii) requires that the proposed transaction not have the effect of lessening competition or creating a monopoly in the Massachusetts insurance market. Mr. Estes testified that the Insurer is presently a shell, is not currently writing new business, and all of its existing liabilities have been reinsured by its current owner. As a result, Mr. Estes testified, since SPARTA currently has no existing business, commencing business through the Insurer would actually increase competition in insurance.

For these reasons, we conclude that subsection (ii) of § 206B(d)(1) does not present an obstacle to approval of the proposed transaction.

(iii) the financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders

Subsection (iii) of § 206B(d)(1) requires that the acquiring company be in sufficiently sound financial condition such that the acquisition does not jeopardize the financial stability of the domestic insurer or prejudice the interests of the insurer's policyholders. Mr. Estes testified that the Insurer is not writing new business. Additionally, liabilities to former policyholders have been 100 percent reinsured by its current owner. Immediately following the closing, SPARTA intends to capitalize the Insurer with approximately \$225 million and commence writing new business upon receiving approval from the Division. Mr. Estes also testified that SPARTA had received notification from A.M. Best that it had assigned an indicative A- rating to SPARTA. Finally, filings with the Division and testimony at the hearing showed substantial investments by SPARTA's co-Applicants Corsair Capital, York Capital, and Goldman Sachs.

For these reasons, we conclude that subsection (iii) of § 206B(d)(1) does not present an obstacle to approval of the proposed transaction.

(iv) the terms of the offer, request, invitation, agreement of acquisition referred to in said subsection (a) are unfair, and unreasonable to the policyholders of the insurer



Subsection (iv) of § 206B(d)(1) requires that the terms of the offer or agreement of acquisition be fair and reasonable to policyholders of the domestic insurers. Mr. Estes testified to his belief that the terms of the acquisition agreement were not unfair or unreasonable to the policyholders of the Insurer. Mr. Estes explained that the purchase agreement was negotiated at arm's length and that the terms are fair and reasonable and, because all of the policyholder obligations of the Insurer have been assumed by the Seller, the acquisition will have no effect on policyholders.

For these reasons, we find that the proposed terms of the acquisition by SPARTA are not unfair or unreasonable to policyholders, and that subsection (iv) of § 206B(d)(1) does not present an obstacle to approval of the proposed transaction.

(v) the plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest

Subsection (v) of § 206B(d)(1) requires that the acquiring party not contemplate any material changes in its business that would be unfair and unreasonable to policyholders, or otherwise would not be in the public interest. Mr. Estes testified that SPARTA does not presently have any plans to liquidate the Insurer, sell any of its assets, merge the Insurer with any other person, or make any other material change to the Insurer other than as described in SPARTA's Form A Statement.

For these reasons, we find that subsection (v) of § 206B(d)(1) does not present an obstacle to approval of the proposed transaction.

(vi) the competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control

Subsection (vi) of § 206B(d)(1) requires that the competence, experience and integrity of those who will control the operations of the domestic insurers subsequent to the merger be of a

sufficient level so as not to be prejudicial or contrary to the interests of the policyholders and the insuring public. Mr. Estes testified that SPARTA has a very experienced management team and that he believed that the competence, experience and integrity of those persons who would control the operation of the Insurer subsequent to the acquisition and that it would be in the interest of policyholders and the public to permit the acquisition of control of the Insurer by SPARTA. Mr. Brooker of Corsair Capital also testified that he believed that the Insurer would be managed by a competent team that possessed relevant industry experience. Mr. Adamson of Goldman Sachs also testified as to his belief that the operations of the Insurer will be controlled on a day-to-day basis by a competent management team that has experience in the business of insurance.

For these reasons, we conclude that subsection (vi) of § 206B(d)(1) does not present an obstacle to approval of the proposed transaction.

(vii) the acquisition is likely to be hazardous or prejudicial to the insurance buying public

Finally, subsection (vii) of § 206B(d)(1) requires that the acquisition not be hazardous or prejudicial, to the insurance buying public. Mr. Estes testified that SPARTA's business is predicated on providing unique insurance solutions to customers based on their specific needs and that he did not have any reason to believe that the proposed acquisition of control of the Insurer would be hazardous or prejudicial to the insurance-buying public.

The Hearing Officers questioned whether SPARTA had any plans to take the company public at any point. Mr. Estes answered that while various liquidity events might take place over time, SPARTA and its co-Applicants consider the acquisition of AEIC to be a long-term investment. The Hearing Officers also asked Mr. Estes to describe existing competition in SPARTA's target market and why SPARTA's management team was especially qualified to take advantage of market opportunities. Mr. Estes stated that SPARTA would be offering a unique proposition to its customers and that there is currently no direct competitor offering the same products. He also stated that SPARTA expects to present a unique platform to its

customers offering one-stop shopping to groups of insureds and providing either traditional insurance or some form of self-insurance business.

Accordingly, we conclude that subsection (vii) of § 206B(d)(1) does not present an obstacle to approval of the proposed transaction.

In addition, we take note that § 206B(b) requires the Applicant to provide 12 items of information in its Form A. Based on our review of the documents in the record before us, we find that the Applicant has satisfied the requirement of that section.

#### **IV. Conclusion**

For all of the reasons set forth herein and based on all of the documents in the docket and testimony in the record, we find and conclude that the Proposed Acquisition Of Control of American Employers' Insurance Company, a Massachusetts domestic insurer and subsidiary of Pennsylvania General Insurance Company, by SPARTA Insurance Holdings, Inc., together with certain co-Applicants described herein, complies with the requirements of Section 206B of Chapter 175 of the Massachusetts General Laws, and is not prejudicial to policyholders or to the insuring public. Therefore, the proposed transaction is hereby APPROVED.

**SO ORDERED.**

DATE: July 31, 2007

---

Elisabeth A. Ditomassi, Hearing Officer

---

Edward M. Phelan, Hearing Officer

**AFFIRMED:**

---

Nonnie S. Burnes, Commissioner