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Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

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**IN THE MATTER OF THE PROPOSED ACQUISITION OF CONTROL OF
MASSACHUSETTS HOMELAND INSURANCE COMPANY BY TOWER GROUP, INC.
AND TOWER INSURANCE COMPANY OF NEW YORK**

DOCKET NO. F2010-02

DECISION AND ORDER

I. Introduction

Tower Group, Inc. and Tower Insurance Company of New York (“the Applicants”) seek approval of their proposed acquisition of control of Massachusetts Homeland Insurance Company (“Proposed Acquisition”), pursuant to M. G. L. c. 175, § 206B and 211 CMR 7.00 *et seq.*

A. The Applicants

Tower Group, Inc. is a publicly traded Delaware holding corporation that is a property and casualty insurance and insurance services company based in New York City. Tower Group has offered property and casualty insurance products and services through its operating subsidiaries since its founding in 1989. Tower Group’s insurance company subsidiaries in the U.S. offer insurance products to individuals and small- to medium-sized businesses through its network of retail and wholesale agents and specialty business through program underwriting agents. Tower Group also offers reinsurance solutions to small insurance companies through its U.S. insurance companies. Tower Group's insurance services subsidiaries provide underwriting, claims and reinsurance brokerage services to other insurance companies. The principal business

activity of Tower Group is serving as the ultimate parent for these direct and indirect subsidiaries in the property and casualty insurance industry. Tower Insurance Company of New York (“TICNY”), a property and casualty insurance company founded in 1989, is a wholly owned direct subsidiary of and the largest insurance company in Tower Group.

B. The Domestic Insurer

Massachusetts Homeland Insurance Company (the “Insurer”), an indirect, wholly-owned subsidiary of OneBeacon Insurance Group, LLC, is a Massachusetts domiciled stock insurance company in the business of marketing, underwriting, distributing and servicing personal lines property and casualty insurance products, including fire, homeowners and private passenger auto coverages in certain states, including Massachusetts.

C. The Division of Insurance Working Group

The Commissioner of Insurance (“Commissioner”) designated a Working Group of staff members of the Division of Insurance (“Division”) to review and evaluate the proposed transaction on behalf of policyholders and the insuring public. The Working Group was led by John Cockerham, Manager of Financial Analysis, and consisted of representatives of the Financial Surveillance, Financial Examination and Legal Units of the Division.

D. The Proposed Transaction

Tower Group has proposed to acquire control of the Insurer as part of a larger transaction (“Larger Transaction”) in which Tower Group will acquire the U.S. personal lines insurance division of OneBeacon Insurance Group, Ltd. (“OneBeacon”). The Larger Transaction will involve the purchase from two of OneBeacon’s subsidiaries of all of the issued and outstanding shares of capital stock of the Insurer and York Insurance Company of Maine, a Maine domiciled stock insurer (“York”). Tower Group will also purchase from OneBeacon certain assets related to the management of OneBeacon’s personal lines division.

In addition, as part of the Larger Transaction, Tower Group will purchase from OneBeacon and its affiliates all of the membership units of two management companies necessary to manage the remainder of the personal lines business: Adirondack AIF, LLC (“NYAIF”), the New York domiciled attorney-in-fact of Adirondack Insurance Exchange, a New York domiciled inter-insurance reciprocal exchange (“AIE”); and New Jersey Skylands Management LLC (“NJAIF”, and with NYAIF, the “Attorneys-in-Fact”), the New Jersey

domiciled attorney-in-fact of New Jersey Skylands Insurance Association, a New Jersey domiciled inter-insurance reciprocal exchange (“NJSIA”, and with AIE, the “Reciprocals”).

The Larger Transaction also includes the purchase by Tower Group subsidiaries of surplus notes issued to certain Renewal Rights Sellers (as defined herein) by the Reciprocals: (1) the surplus note issued by AIE in the amount of \$70,700,000.00 pursuant to that certain Loan Agreement dated August 31, 2004 between AIE and Renewal Rights Seller Homeland Insurance Company of New York (the “AIE Surplus Note”); (2) the surplus note issued by NJSIA in the aggregate amount of \$31,450,000, comprised of a \$31,250,000 surplus loan and a \$200,000 security deposit loan, pursuant to that certain Subordinated Surplus Loan dated July 15, 2002 to Renewal Rights Seller The Camden Fire Insurance Association (the “NJSIA Surplus Note”, and with the AIE Surplus Note, the “Surplus Notes”).

Acquisition of the Attorneys-in-Fact will result in Tower Group’s acquisition of control over the management of the Reciprocals and New Jersey Skylands Insurance Company, a New Jersey domiciled stock insurance company that is wholly owned by NJSIA (“NJSIC,” and with the Reciprocals, Attorneys-in-Fact, York and the Insurer, the “Acquired Companies”). After the closing of the Larger Transaction, the Insurer will be directly owned by TICNY, and Tower Group will be the ultimate controlling person of the Acquired Companies.

In addition, the Larger Transaction will include the acquisition by Tower Group and its subsidiaries of the right to offer, quote and solicit renewals (“Renewal Rights”) of certain in-force personal lines policies of the Renewal Rights Sellers.

In connection with the Larger Transaction, the parties will enter into certain reinsurance and other transactions necessary to align the personal lines business being acquired with Tower Group and its subsidiaries, and transfer to OneBeacon business of the Insurer and York that is not included in the business being acquired.

Consideration for the entire Larger Transaction will total approximately \$180 million in cash. The portion of consideration attributed to the proposed acquisition of the Insurer totals \$23.6 million, based upon the Insurer’s GAAP book value as of the closing date and will be paid by TICNY.

II. Procedural History

On February 22, 2010, in accordance with M.G.L. c. 175, § 206B and 211 CMR 7.00 *et seq.*, the Applicants submitted to the Division a “Form A” application, “Statement Regarding Acquisition of Control or Merger With A Domestic Insurer, Massachusetts Homeland Insurance Company,” with accompanying exhibits (the “Application”). On May 7, 2010, the Working Group deemed the Application complete and the Commissioner issued a Notice of Public Hearing (“Notice”) that scheduled the hearing in this matter for May 28, 2010.

The Notice was posted on the Division’s website on May 7, 2010 and also was mailed directly to individuals who requested notification of Division proceedings. The Applicants provided a copy of the Notice to the Insurer on May 11, 2010. The Notice appeared in *The Boston Globe* on May 8, 2010 and *The Wall Street Journal, Eastern Edition* on May 14, 2010. The Notice informed the public that information about the Applicants proposed acquisition of the Insurer was available for inspection at the Division. Any person whose statutory interests may be affected by the proceeding, or to whom the Notice was sent, was advised to submit to the Division by May 21, 2010 a written Notice of Intent to Participate at the hearing. The Notice identified May 24, 2010 as the close of discovery. No person or entity filed a Notice of Intent to Participate, or sought discovery relative to the proposed transaction.

On May 7, 2010, the Applicants submitted to the Division an amendment to the Purchase Agreement, a revised “Abbreviated organization Chart of the Domestic Insurer” to replace Exhibit 2 in the Form A, the unaudited financial statement of Tower Insurance Company of New York as of December 31, 2009, audited financial statements for Tower Insurance Company of New York for the years 2005 to 2008 and a revised Exhibit 8 to the Application. The Applicants additionally submitted pre-filed testimony of Gary S. Maier and Michael J. McSally on May 27, 2010. The Working Group submitted pre-filed testimony of John Cockerham on May 21, 2010.

The Commissioner appointed Mindy A. Merow Rubin, Counsel to the Commissioner, to serve as Presiding Officer for the hearing. The Presiding Officer did not participate in the Working Group’s analysis of the Application and related materials.

III. The Public Hearing

The hearing commenced on May 28, 2010 at 10:00 a.m. at the offices of the Division. Representatives of the Applicants, the Insurer and the Division's Working Group appeared at the hearing.

John Cockerham, Manager of Financial Analysis at the Division, provided testimony on behalf of the Working Group regarding its view of the Proposed Acquisition. Mr. Cockerham testified that the Working Group had reviewed the Application and exhibits, including the Purchase Agreement, financial projections and financial statements. Mr. Cockerham noted that the Proposed Acquisition is part of a larger transaction by which Tower Group will acquire the U.S. personal lines division of OneBeacon. He testified that in connection with the Proposed Acquisition as well as the Larger Transaction, various affiliates of Tower Group and OneBeacon will enter into certain reinsurance and other transactions necessary to align the personal lines business being acquired with Tower Group and its subsidiaries, as well as transfer to OneBeacon and its affiliates business that is not included in the business being acquired ("Ancillary Transactions"). Mr. Cockerham stated that the Ancillary Transactions include three Form D Submissions filed with the Division pursuant to M.G.L. c. 175, section 206C(n) and a request for an extraordinary dividend made pursuant to M.G.L. c. 175, sections 206C(e) and (r) and noted that these are mentioned for completeness only as they are beyond the scope of this hearing. Mr. Cockerham additionally stated that the Working Group noted no matters that would lead to an adverse determination under Section 206C relative to the Ancillary Transaction submissions.

Mr. Cockerham concluded his testimony by addressing each of the seven standards articulated in M.G.L. c. 175, § 206B(d)(1). He testified that the Working Group did not believe that any matter reviewed would lead to an adverse determination relative to any of the standards set forth in that statute. He also noted that as the Applicants have sought approval for various parts of the Larger Transaction from regulators in Maine, New Jersey and New York, which were pending, the Working Group recommends that any final order issued in this matter be conditioned upon the Applicants also receiving those requested approvals. Additionally, Mr. Cockerham testified that the Working Group recommends that any final order issued in this matter impose upon the Applicants an ongoing obligation to provide information about the progress of the Larger Transaction until its final consummation.

Mr. Gary S. Maier, Senior Vice President and Chief Underwriting Officer of Tower Group, Inc. and Senior Vice President and Chief Underwriting Officer and a director of Tower Insurance Company of New York, provided testimony on behalf of the Applicants. Mr. Maier testified that Tower Group, a publicly traded Delaware holding corporation based in New York City, is a leading property and casualty insurance and insurance services company. The principal business activity of Tower Group is serving as the ultimate parent for its direct and indirect subsidiaries in the property and casualty insurance industry. As of December 31, 2009, Tower Group had assets in excess of \$2.0 billion. In 2009, Tower Group insurance subsidiaries wrote in excess of \$1.0 billion in insurance premium in the United States. Tower Group is rated A- (Excellent) by A.M. Best. As of December 31, 2009, Tower Group had approximately 990 employees, including 13 in Quincy, Massachusetts. Tower Group insurance subsidiaries, including Tower National Insurance Company, a Massachusetts domestic company, do business in Massachusetts and in 2009 Tower Group insurance subsidiaries wrote in excess of \$10 million of premium in Massachusetts. Mr. Maier described TICNY as the largest insurance company in the Tower Group, offering property and casualty insurance products and services since its founding in 1989.

Mr. Maier described the terms and conditions of the Proposed Acquisition, noting that the Tower Group is involved in a larger transaction to acquire the personal lines insurance division of OneBeacon Insurance Group. Mr. Maier testified that this Larger Transaction will permit Tower Group to enhance its existing offerings with a comprehensive suite of personal lines products, including auto, homeowners, umbrella, dwelling fire, watercraft and package products. The Larger Transaction will enable Tower Group to add to its operations a robust personal lines platform that will complement its existing insurance business.

Mr. Maier stated that OneBeacon's current subsidiaries include, among others, Massachusetts Homeland Insurance Company, and in connection with and as part of the Larger Transaction, the Applicants seek to acquire 100% of the stock of the Insurer, which is the transaction that is the subject of this hearing.

Mr. Maier testified that on the closing date, Tower Group will purchase from OneBeacon and its affiliates all of the issued and outstanding shares of capital stock of the Insurer. Tower Group will also complete the Larger Transaction through various purchases and other

arrangements taking effect. He stated that the Proposed Acquisition of the Insurer does not require approval by either Tower Group or OneBeacon shareholders, and no shareholder will hold 10% or more of the voting securities of Tower Group outstanding after the Larger Transaction is complete.

Mr. Maier then testified as to how the operations of the Insurer will be integrated into Tower Group's existing operations, explaining that the majority of Tower Group's existing business is commercial lines, and Tower Group's commercial business will continue to operate as it currently does, and noted that the Proposed Acquisition will expand Tower Group's personal lines capabilities. Mr. Maier continued by stating, "At present, [Tower Group] anticipates that it will not make any material changes in the types of personal lines business written by the insurer, which includes fire, homeowners and private passenger auto coverages. Business will, however, be conformed to the [Tower Group's] underwriting guidelines, and some corrective action in the renewal process may be necessary." When asked to explain what was meant by corrective action, Mr. Maier gave the example of a technical correction whereby OneBeacon was asked to file a plan of withdrawal with the state of Rhode Island for the Insurer.

Mr. Maier explained that the Insurer does not have its own employees, instead these services are provided by employees of OneBeacon. He explained that Tower Group will acquire approximately 400 staff from OneBeacon, including claims, underwriting, operations and managerial staff that are experienced in personal lines. Of these new staff, it is expected that approximately 180 will be based in Massachusetts. He noted that in addition, pursuant to a Transition Services Agreement to be entered into with OneBeacon at the closing, Tower Group will acquire access to the information technology infrastructure necessary to operate the business as it is currently being operated. The addition of the acquired companies, including the Insurer, and associated assets will provide Tower Group with the knowledge, infrastructure and expertise to offer and service personal lines business as it is currently being offered and serviced by OneBeacon. Mr. Maier added that approximately 400 new agents will be added to the Tower Group distribution network. These agents, where appropriately licensed, will have access to additional products in the Tower Group commercial lines portfolio.

Mr. Maier then confirmed that the Applicants have no plans to cause the insurer to declare an extraordinary dividend, no plans to liquidate or sell the assets of the Insurer, no

present plans to merge or consolidate the Insurer and no present plans to make any other material change to the business operations of the Insurer. He stated that “Upon the closing of the proposed transaction, the [Insurer] will enter into a number of intercompany arrangements with its new Tower affiliates, including a services and expense sharing agreement. In addition, the [Insurer] will enter into net quota share reinsurance agreement with Tower National Insurance Company, a subsidiary of Tower.” Mr. Maier noted that Form D filings concerning these transactions have been submitted to the Commissioner under separate cover.

When asked about other outstanding regulatory approvals related to the Larger Transaction, Mr. Maier explained that concurrent applications for approval for OneBeacon subsidiaries that are being acquired in the Larger Transaction were filed with the Maine, New Jersey and New York insurance regulators.

Mr. Michael J. McSally, Senior Vice President for Personal Lines of OneBeacon Insurance Group, Ltd., testified in support of the Proposed Acquisition of the Insurer. Mr. McSally testified that OneBeacon supports the Proposed Acquisition of the Insurer, and the Larger Transaction, because OneBeacon has made the decision to cease writing personal lines business and concentrate on specialty lines business. Mr. McSally stated that OneBeacon expects that the Proposed Acquisition will have little effect on the policyholders, noting that after the closing, the Insurer will be owned by a strong, experienced parent, as it is now. Additionally, he emphasized that service levels and most personnel will remain the same as Tower Group will hire most of the current OneBeacon personal lines staff that have been serving these policies and will use the existing OneBeacon personal lines systems.

The public hearing was then adjourned and the docket remained open until 5:00 pm on May 28, 2010. No additional filings were received and the docket was closed.

IV. Analysis of the Proposed Transaction

A. Statutory Standard

The Commissioner shall approve the proposed transaction unless he finds that such approval would result in any of the circumstances set forth in M.G.L. c. 175, § 206B(d)(1)(i)

through (vii). These circumstances, and the testimony relevant to these circumstances, are as follows.

- (1) ***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.***

M.G.L. c. 175, § 206B (d)(1)(i) requires the domestic insurer, post-acquisition, to be able to satisfy the same licensing requirements as required for the writing of the lines of insurance currently written by the domestic insurer. The Insurer currently is licensed to write insurance in Massachusetts. Mr. Maier testified that “there is nothing about the proposed transaction that would change anything about [the Insurer] that could possibly affect its license in Massachusetts. It will continue to have the same day-to-day management, adequate capital and surplus and the same lines of authority after the closing as it had prior to the closing.” Mr. Cockerham testified that the Working Group found nothing in its review that would lead to an adverse determination relative to this standard.

- (2) ***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.***

M.G.L. c. 175, § 206B (d)(1)(ii) requires that the proposed transaction neither lessen competition nor create a monopoly in the Massachusetts insurance market. Mr. Maier testified that “we do not expect the proposed transaction to lessen competition in Massachusetts. [The Insurer's] business consists of personal lines, while [Tower Group's] existing business in Massachusetts consists of mostly commercial lines. We do not expect market concentration in any line of insurance in Massachusetts as the result of the proposed transaction.” Mr. Cockerham testified that the Working Group found nothing in its review that would lead to an adverse determination relative to this standard.

- (3) ***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.***

M.G.L. c. 175, § 206B (d)(1)(iii) requires that any acquiring company be in sufficiently sound financial condition such that the proposed transaction does not jeopardize the financial stability of the domestic insurer or prejudice the interests of policyholders. Mr. Maier testified that “The applicants are stable, well-capitalized companies in solid financial condition, rated A minus, excellent, by A.M. Best. In our view, the acquisition of [the Insurer] by the applicants would not jeopardize the financial stability of [the Insurer] or prejudice the interests of the policyholders.” Mr. Cockerham testified that the Working Group found nothing in its review that would lead to an adverse determination relative to this standard.

- (4) ***The terms of the offer, request, invitation, agreement or acquisition referred to in the said subsection (a) are unfair and unreasonable to the policyholders of the insurer.***

M.G.L. c. 175, § 206B (d)(1)(iv) requires that the terms of the offer or agreement of acquisition not be unfair or unreasonable to policyholders of the domestic insurer. Mr. Maier testified that he does not believe that the terms of the proposed transaction are unfair and unreasonable to the policyholders of the Insurer, and stated that “The Applicants and OneBeacon have structured the transaction to minimize any impact on policyholders. Rights of policyholders under their contracts will not change and we expect that the level of service policyholders receive after the acquisition will remain largely the same.” Mr. McSally testified that he expects that there will be little effect on the policyholders. He stated that “after the closing of the proposed transaction, the company will be owned by a strong, experienced parent just as it is now. In addition, Tower will hire most of the current OneBeacon personal lines staff that have been serving these policies and will use the existing OneBeacon personal lines systems. We expect that service levels will remain largely the same, with services being provided often by the same individuals who currently service our policyholders.” Mr. Cockerham testified that the Working Group found nothing in its review that would lead to an adverse determination relative to this standard.

- (5) ***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.***

M.G.L. c. 175, § 206B (d)(1)(v) requires that the acquiring party not be contemplating any material changes in its business that would be unfair and unreasonable to the domestic insurer's policyholders, or otherwise would not be in the public interest. Mr. Maier testified that "the applicants have no plans 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 day-to-day management." Mr. Cockerham testified that the Working Group found nothing in its review that would lead to an adverse determination relative to this standard.

- (6) ***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 the policyholders of the insurer and of the public to permit the merger or other acquisition of control.***

M.G.L. c. 175, § 206B (d)(1)(vi) requires that the competence, experience and integrity of those who will control the operations of domestic insurers subsequent to a proposed transaction be of a sufficient quality so as not to be prejudicial or contrary to the interests of the policyholders and the insuring public. Mr. Maier testified that he is familiar with the individuals who will serve as directors and executive officers of the Applicants and who will control the Insurer and the directors and executive officers who will replace the current directors and executive officers of the Insurer upon the closing of the Proposed Acquisition, and believes that they have the requisite competence, experience and integrity. He stated that "The directors and executive officers of the applicants who would control [the Insurer] are seasoned and experienced individuals in the insurance industry with proven records of competence, service and integrity. As a result, it is my view that the competence, experience and integrity of those individuals who will control the operations of [the Insurer] at closing will be sufficient and will not jeopardize the interests of the policyholders of the insurer and the public." He added that the

Applicants have no present intention of changing the day-to-day management of the business and operations of the Insurer. Mr. Cockerham testified that the Working Group found nothing in its review that would lead to an adverse determination relative to this standard.

(7) *The acquisition is likely to be hazardous or prejudicial to the insurance buying public.*

Finally, M.G.L. c. 175, § 206B (d)(1)(vii) requires that the proposed transaction not be hazardous or prejudicial to the insurance buying public. Mr. Maier testified that the Proposed Acquisition is not likely to be hazardous or prejudicial to the insurance buying public, and stated that “the Applicants are strong, established and well-capitalized companies that are already familiar with certain segments of the insurance-buying public in Massachusetts.” Mr. Cockerham testified that the Working Group found nothing in its review that would lead to an adverse determination relative to this standard.

B. Findings

Based on the testimony presented at the hearing, including the Working Group’s recommendation, as well as an independent review of the Application, related documents and all of the materials and information in the record of this proceeding, I find no obstacles to the approval of the Applicants proposed acquisition of the Insurer pursuant to M.G.L. c. 175, § 206B (d)(1)(i) through (vii).

V. Conclusion

Given that the Proposed Acquisition of the Insurer is one part of the Larger Transaction, the Applicants shall provide information to the Division’s Working Group regarding the progress of the Larger Transaction until the date on which such Larger Transaction is fully consummated. If there is any material change to any item submitted to the Division as it relates to the approval of this proposed acquisition or any matters testified to during the hearing, the Applicants shall promptly submit such additional information to the Working Group so that the docket may be reopened and such information presented for my review. The docket may be reopened through the date of the consummation of the Larger Transaction upon the request of the Working Group

for any reason, or at the Commissioner's initiation. Additionally, the approval of the Proposed Acquisition is specifically contingent upon the receipt of the requested approvals from the Commissioners of Insurance of Maine, New Jersey and New York.¹

Based on the findings and analysis set forth above, the Applicants' Proposed Acquisition of Control of Massachusetts Homeland Insurance Company complies with the requirements of M. G. L. c. 175, § 206B and is not prejudicial to the policyholders or to the insuring public. The Division hereby authorizes the Proposed Acquisition subject to the conditions contained in the above paragraph.

SO ORDERED.

June 23, 2010

Mindy A. Merow Rubin
Presiding Officer

Affirmed:

Joseph G. Murphy
Commissioner of Insurance

¹ On June 22, 2010, the Division received from the Applicants copies of these requested approvals from the Commissioners of Insurance of Maine, New Jersey and New York.