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**IN THE MATTER OF THE ACQUISITION OF CONTROL OF TOWER
NATIONAL INSURANCE COMPANY AND MASSACHUSETTS HOMELAND
INSURANCE COMPANY BY ACP RE, LTD.**

DOCKET NO. F2014-01

DECISION AND ORDER

I. Introduction

ACP Re, Ltd. (“ACP Re” or the “Applicant”) seeks approval by the Massachusetts Commissioner of Insurance (“Commissioner”) of its proposed acquisition of control (“Acquisition”) of the Tower National Insurance Company (“Tower National”) and its affiliate, Massachusetts Homeland Insurance Company (“Massachusetts Homeland”) (collectively, the “Insurers”) pursuant to Massachusetts General Laws Chapter (“Chapter”) 175, §206B (“§206B”). The Insurers are Massachusetts-domiciled property and casualty insurance companies; ACP Re is a privately owned Bermuda reinsurer. The Applicant proposes to acquire control of the Insurers by purchasing all the issued and outstanding stock of the Insurers’ ultimate controlling parent, Tower Group International Ltd. (“Tower Group”), a publicly-traded Bermuda insurance holding company.

Tower National was incorporated in Massachusetts in 1983. It offers commercial and personal lines property and casualty insurance in Massachusetts and several other jurisdictions. Massachusetts Homeland was incorporated in Massachusetts in 1981; the Tower Group acquired the company in 2010. Massachusetts Homeland offers commercial and personal lines property and casualty insurance products in a number of states, including Massachusetts.

The Acquisition for which the Applicant seeks approval is structured as a merger between an ACP Re subsidiary, London Acquisition Company Ltd., with and into the Tower

Group pursuant to an Agreement and Plan of Merger dated January 3, 2014. Following the merger and Acquisition, ACP Re will be the sole shareholder of the surviving company, Tower Group, and the indirect owner of one hundred percent of the issued and outstanding stock of Tower National and Massachusetts Homeland.

ACP Re initially submitted its “Form A Statement Regarding Acquisition of Control of Tower National Insurance Company and Massachusetts Homeland Insurance Company” (“Form A”), and accompanying exhibits to the Massachusetts Division of Insurance (“Division”) on April 8, 2014. It submitted Amendments to the Form A on May 16, 2014, July 29, 2014 and August 7, 2014. The Commissioner directed the formation of a working group of Division staff members (the “Working Group”), supervised by John Turchi, the Division’s Deputy Commissioner for Financial and Market Regulation, to review the proposed acquisition on behalf of policyholders and the insuring public.

Pursuant to §206B(d)(1), the Commissioner must hold a public hearing on the Acquisition 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). The Commissioner appointed Robert A. Whitney, Esq., Deputy Commissioner and General Counsel of the Division, Jean F. Farrington, Esq. and Stephen M. Sumner, Esq., none of whom had participated in the Working Group’s analysis of the proposed acquisition, to serve as Presiding Officers for the public hearing.

On August 20, 2014, the Working Group deemed ACP Re’s Form A complete and the Commissioner issued a Notice of Hearing (“Notice”) regarding the Acquisition. The Notice was posted on the Division’s website and published in the *Wall Street Journal* on August 22, 2014 and in the *Boston Globe* on August 23, 2014. The Notice set September 5, 2014 as the date for the public hearing and advised that information about the Acquisition was available for public inspection at the Division. ACP Re waived the twenty days’ notice of the hearing to which it was entitled under §206B(d)(2).

The Notice also stated that the purpose of the hearing was to afford persons identified in §206B(d)(2) an opportunity to participate in the hearing as prescribed by that section. It required any person seeking to participate to submit a Notice of Intent to Participate on or before September 3, 2014, setting forth the statutory basis for the requested participation, the basis for

the person's interest in the proposed Acquisition and the scope of the requested participation. The Notice also advised that all discovery proceedings must be concluded no later than August 29, 2014. No persons or entities filed a Notice of Intent to Participate in this proceeding.

II. Summary of Testimony

The public hearing took place on September 5, 2014. Jeffrey Weissmann, Vice-President and General Counsel of ACP Re, appeared on its behalf. He reviewed the entire scope of the transactions associated with the Acquisition, in which ACP Re will acquire the Tower Group's insurer subsidiaries. In connection with the Acquisition, ACP Re's affiliates, National General Holdings, Inc. ("National General") and AmTrust Financial Services, Inc. ("AmTrust") will administer the Insurers' existing policies, handle claims on those policies, and prospectively manage and reinsure new business that the Insurers write.

AmTrust now writes property and casualty insurance in Massachusetts, principally workers' compensation, commercial lines, and warranty products. The Insurers have approximately 120 employees in Massachusetts who will continue to handle the Insurers' business together with experienced National General and AmTrust employees.

Mr. Weissmann testified that the proposed Acquisition would enable National General and AmTrust to obtain significant commercial lines and personal lines books of business as well as a group of experienced employees. Both Insurers will continue to write the same types of business that they now do. ACP Re does not expect the Acquisition to reduce competition in the Massachusetts market or to create market concentration. Mr. Weissmann opined that the transaction would be in the interest of the Insurers and their policyholders because it would ensure that existing policies and existing claims are administered smoothly. Further the Insurers' policyholders would benefit from the new owner and administrators' commitment to the property and casualty insurance business and to customer service, as well as their strong financial standing.

Mr. Weissmann addressed both the consideration for the proposed Acquisition and the financing arrangements, confirming that the consideration was determined by arms length transactions and the financing terms negotiated by independent special committees of the Boards of National General and AmTrust. He testified that the directors and officers of ACP Re are distinguished individuals with many years of experience with the Applicant and affiliated

insurance companies. Mr. Weissmann offered their service over time as evidence of their integrity, competence and experience.

William E. Hitselberger, Executive Vice-President and Chief Financial Officer of the Tower Group as well as of Massachusetts Homeland and Tower National, testified on behalf of the Insurers. He confirmed that ACP Re had notified the Insurers of the hearing date in accordance with the requirements of §206B(d)(2). He also submitted into evidence a document certifying the results of the Tower Group shareholders' vote, taken on August 6, 2014, approving the proposed transaction.

Mr. Hitselberger stated that the Tower Group wanted to enter into this Acquisition because it had suffered a loss of capital and some significant downgrades in the ratings of its insurance subsidiaries, events that affected its access to capital markets. In addition, he noted, the capital levels of some of its subsidiaries are below those desired by its customers and some insurance regulators. In the fourth quarter of 2013, Tower Group began discussions with ACP Re, which resulted in a merger agreement early in 2014. Mr. Hitselberger noted that the Insurers had also reinsured all of their business with ACP Re affiliates, thus providing a stable market for their customers.

Mr. Hitselberger further testified that the Tower Group believes that this Acquisition will reduce or eliminate the Insurers' operating losses and provide for a more stable statutory capital base. He anticipates that there will be little, if any, effect on current policyholders because, after completion of the transactions, the Insurers will be owned by a strong, experienced parent, whose affiliates will hire most of the employees who now service the Insurers' policies. Mr. Hitselberger testified as well that ACP Re or its affiliates will continue the agent appointments of virtually all the Insurers' current Massachusetts sales representatives.

Mr. Turchi testified on behalf of the Working Group regarding its review of the proposed Acquisition. He noted that the Working Group consisted of representatives of the Financial Surveillance, Financial Examination and Legal Units of the Division. Mr. Turchi clarified certain aspects of the agreements between ACP Re and its affiliates and members of the Tower Group, noting that National General, prospectively, will manage and reinsure the Insurers' personal lines business and AmTrust will, prospectively, manage and reinsure their commercial lines business.

Mr. Turchi pointed out that Tower Group, pursuant to subsection (n) of Chapter 175, §206C (“§206C”) has filed submissions with the Division advising it of transactions that it intends to enter into with persons in its holding company system. Those submissions, known as Form D submissions, relate to certain reinsurance and administrative arrangements that are essential to the proposed Acquisition. The Working Group recommends that they be taken into consideration in reviewing the Form A, although they are supplemental to, rather than included in the Form A. Mr. Turchi testified that the Working Group had reviewed the Form D submissions and noted no matters that would lead to an adverse determination under §206C. He reiterated that the Tower Group shareholders had voted on August 6, 2014, to approve the Acquisition.

Mr. Turchi testified that the Working Group had reviewed ACP Re’s initial Form A, amendments to the Form A and exhibits, including the January 3, 2014 Agreement and Plan of Merger between ACP Re and the Tower Group, financial statements and examination materials, and financial projections. The Working Group analyzed those materials based on the seven standards in §206B (d)(1). Mr. Turchi testified that, after its review, the Working Group noted no matters that would lead to an adverse determination with respect to any of those standards.

Mr. Turchi further reviewed recent changes in the Tower Group’s financial status, which included the most recent downgrade by a rating agency on August 28, 2014. Of particular concern to rating agencies is the Tower Group’s capacity to make a debt repayment that is due on September 15, 2014, unless the acquisition is approved on or before that date. Mr. Turchi commented that failure to complete the proposed Acquisition before that date could have an adverse effect on the Insurers and their policyholders.

III. Analysis of the Proposed Acquisition

The Commissioner must approve the Acquisition unless he finds that such approval would result in any of the conditions set forth in subsections (i) through (vii) of § 206B(d)(1). Each of those conditions will be addressed in turn.

A. The Acquisition Satisfies the Requirements of §206D(d)(1)(i)

§206B(d)(1)(i) requires the domestic Insurers, post-merger, to be able to satisfy the licensing requirements required to write the lines of insurance that they currently write. The Insurers now hold licenses to write property and casualty insurance business in Massachusetts. Mr. Weissmann testified to his understanding that those licenses are in good standing and that

the Insurers will be able to satisfy Massachusetts' licensing requirements after the Acquisition. He stated that nothing in the transaction would affect the Insurers' Massachusetts licenses that they would continue to have adequate capital and surplus and the same lines of authority after closing, and will be managed by experienced personnel. The Working Group included Division staff from its Financial Surveillance Unit whose duties include oversight of company licensing. As Mr. Turchi noted, the Working Group had no concerns that the proposed Acquisition would adversely affect the Insurers' ability to satisfy Massachusetts licensing requirements for domestic insurers.

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

B. The Acquisition Satisfies the Requirements of §206D(d)(1)(ii)

Section 206B(d)(1)(ii) requires that the Acquisition not have the effect of lessening competition or creating a monopoly in the Massachusetts insurance market. Mr. Weissmann testified that the proposed Acquisition would not be expected to lessen competition in Massachusetts or to create a monopoly in the Commonwealth. He pointed out that National General does not currently write in Massachusetts and that AmTrust wrote approximately \$32 million in premium in Massachusetts in 2013.

He reported that Massachusetts Homeland wrote \$42.5 million in personal lines premium in 2013 and Tower National wrote \$6.1 million. Mr. Weissmann believed that neither insurer was a substantial participant in the overall market. Mr. Hitselberger confirmed that the Insurers at this time write under \$50 million in annual premium, which he believed is significantly less than three percent of the market. As noted above, Mr. Turchi testified that the Working Group had no concerns that the Acquisition would reduce competition in the Massachusetts market or tend to create a monopoly.

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

C. The Acquisition Satisfies the Requirements of §206D(d)(1)(iii)

Subsection (iii) of § 206B(d)(1) requires that the financial condition of the acquiring company is such that the Acquisition will not jeopardize the financial stability of the domestic insurers or prejudice the interests of the policyholders. Mr. Weissmann testified that ACP Re is a stable, well capitalized company in solid financial condition that is currently rated A-

(Excellent) by A. M. Best. In the Applicant's view, Acquisition of the Insurers would not jeopardize the Insurers' financial stability or prejudice the interest of its policyholders. Mr. Hitselberger testified that the Tower Group expected that the Acquisition would have very little, if any effect on its policyholders, noting that after the transaction is completed it will be owned by a strong, experienced parent. In addition, he commented that policyholders will benefit from the decision by ACP Re and its affiliates to retain employees who currently service the Insurers' policyholders. Mr. Turchi further stated that the Working Group found no indication that the Acquisition would jeopardize the Insurers' financial stability or prejudice the interest of their policyholders.

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

D. The Acquisition Satisfies the Requirements of §206D(d)(1)(iv)

Subsection (iv) of §206B(d)(1) requires that the terms of the offer or agreement of acquisition not be unfair or unreasonable to policyholders of the domestic insurers. Mr. Weissmann testified that ACP Re had structured the Acquisition to minimize any effect on the policyholders, specifically noting that neither policyholder rights under their contracts nor the level of service that policyholders receive will change. Mr. Hitselberger's testimony on behalf of the Tower Group confirmed Mr. Weissman's assessment of the effect of the Acquisition on the Insurers' policyholders. Mr. Turchi further stated that the Working Group found no indication that the terms of the Acquisition would be unfair or unreasonable to the Insurers' policyholders.

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

E. The Acquisition Satisfies the Requirements of §206D(d)(1)(v)

Subsection (v) of §206B(d)(1) requires that the acquiring party not be contemplating any material changes in the business of the domestic insurer that would be unfair and unreasonable to policyholders, or otherwise would not be in the public interest. Mr. Weissmann testified that ACP Re has no present plans to liquidate the Insurers or to sell their assets, nor any present plans to merge or consolidate the Insurers. He further stated that, other than transferring management responsibilities to National General and AmTrust, ACP Re has no present plans to make any other material change in the Insurers' business operations.

Mr. Weissmann's testimony indicates that upon completion of the Acquisition Mr. Hitselberger, currently the Executive Vice-President and Chief Financial Officer of both Insurers, will become President and Treasurer of each of the Insurers. Again, we consider Mr. Turchi's testimony that the Working Group, after its review, noted no matters that would lead to an adverse determination with respect to any of the standards in §206B(d)(1)(v). We find that the policyholders of each company should benefit from an arrangement that ensures that each company will have senior management that is familiar with its operations.

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

F. The Acquisition Satisfies the Requirements of §206D(d)(1)(vi)

Subsection (vi) of §206B(d)(1) requires that the competence, experience and integrity of those who will control the operations of the Insurers post-acquisition are sufficient to support a conclusion that the Acquisition will be in the interest of the Insurers' policyholders and of the insuring public. Mr. Weissmann testified that ACP Re's directors and executive officers are all seasoned and experienced individuals in the insurance industry who have served it and other affiliated insurance companies for many years. Biographical information for each was provided to the Working Group for its review.

Mr. Weissmann further stated that each has a proven record of competence, service, integrity and financial responsibility. For that reason, in his opinion, those who will control the Insurers' operations after closing have sufficient competence, integrity and experience such that it is in the interests of the Insurers' policyholders and the public to permit the proposed Acquisition. As with standards (i) through (v), Mr. Turchi testified that the Working Group, after its review, noted no matters that would lead to an adverse determination with respect to any of those standards.

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

G. The Acquisition Satisfies the Requirements of §206D(d)(1)(vii)

Finally, subsection (vii) of §206B(d)(1) requires that the acquisition not be hazardous or prejudicial to the insurance buying public. Mr. Weissmann testified that the Acquisition is unlikely to have an adverse effect on the Insurers' contractual obligations or their ability and "tendency" to provide service in the future to their policyholders and the public. He reiterated

his testimony that the future managers of the Insureds' operations, National General and AmTrust, are strong, established and well capitalized companies, each of whom is hiring the Insurers' employees who currently service the Insurers' policies. Again, we consider Mr. Turchi's testimony that the Working Group, after its review, noted no matters that would lead to an adverse determination with respect to any of the statutory standards.

Accordingly, for these reasons we find that §206B(d)(1)(vii) does not present an obstacle to approval of the Acquisition.

IV. Conditions for Approval

Mr. Weissmann testified that the proposed Acquisition requires approval not only by the Massachusetts Commissioner but also by regulatory authorities in the states of New York, New Jersey, Maine, California, Florida and New Hampshire, and the Territory of Bermuda. Mr. Turchi testified that the Working Group is aware of the need for approval or notice of non-disapproval from those jurisdictions of both the Form A filings and the forms documenting the related transactions. He noted that the Insurers' parent company, Tower Insurance Company of New York ("TICNY"), is regulated as a domestic company by the State of New York, and that the Insurers, like other TICNY subsidiaries, participate directly or indirectly in a pooling arrangement that TICNY leads.

For that reason, the Working Group recommends that, if the Commissioner decides to approve the Acquisition, final approval be conditional upon ACP Re's receipt of approval or a notice of non-disapproval from New York and any conditions prescribed therein. It also recommends that any final order impose on ACP Re an obligation to provide information to the Working Group about the progress of the proposed Acquisition until its closing date. Mr. Hitselberger stated that the Insurers had no objections to the Working Group's recommendations. Mr. Weissmann committed to notifying the Division of decisions from any other jurisdiction that must give approval to the proposed Acquisition.

Because the proposed Acquisition of the Insurers is one facet of a multi-jurisdictional transaction, ACP Re is ordered to advise the Working Group promptly of the progress of proceedings in each jurisdiction and the final resolution of each of those proceedings. ACP Re shall promptly submit to the Working Group any material change to the information provided to the Division in connection with any aspect of the Massachusetts proceeding. After the Working Group has reviewed any such submission, it may request that the docket be reopened to permit

such information and any testimony thereon to be entered into the record. The approval of the proposed Acquisition at this time is specifically contingent upon receiving approval from the State of New York of transactions involving the Tower Group.

V. Conclusion

We find and conclude, for all of the reasons set forth above, that the proposed Acquisition of Control of the Tower National Insurance Company and the Massachusetts Homeland Insurance Company by ACP Re complies with the requirements of Chapter 175, §206B and is not prejudicial to the policyholders or to the insuring public. The Division hereby authorizes the Acquisition, subject to the conditions in Section IV of this decision.

IT IS SO ORDERED.

Dated: September 10, 2014

Stephen M. Sumner, Esq.
Presiding Officer

Jean F. Farrington, Esq.
Presiding Officer

Robert A. Whitney, Esq.
Presiding Officer

Approved this 11th day of September, 2014

Joseph G. Murphy
Commissioner of Insurance