

Decision

For the reasons set forth above, the proposed Agreement and Plan of Merger between Guaranty National Insurance Company, a Delaware domiciled property/casualty insurance Company with and Security Insurance Company of Hartford, a Delaware domiciled property/casualty insurance company, with Security Insurance Company of Hartford becoming the surviving company is hereby approved.

IT IS SO ORDERED, this 13 day of December, 2006.





Matthew Denn
Insurance Commissioner

THE INSURANCE DEPARTMENT OF THE STATE OF DELAWARE

IN THE MATTER OF:)
)
The Proposed Merger of Guaranty National)
Insurance Company, a Delaware domiciled) **Docket No. 312**
property/casualty insurance company with and)
into Security Insurance Company of Hartford,)
a Delaware domiciled property/casualty)
insurance company.)

**HEARING OFFICER'S
RECOMMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DECISION**

This constitutes the Recommended Findings of Fact, Conclusions of Law and Decision (“Proposed Decision”) by the appointed Hearing Officer in the above-captioned matter.

I. RECOMMENDED FINDINGS OF FACT

Identity of Parties Involved

1. Security Insurance Company of Hartford (“SICH”) is a stock insurance company existing under the laws of the state of Delaware with its principal place of business in Charlotte, North Carolina. Notes of Testimony (“N.T.”), page 22, lines 6-11; Exhibit (“Ex.”) 1, page 1; Ex. 1(A), page 1.

2. Guaranty National Insurance Company (“GNIC”), a wholly-owned subsidiary of SICH, is a stock insurance company existing under the laws of the state of Delaware with its principal place of business in Charlotte, North Carolina. N.T. page 22, lines 6-11; Ex. 1, page 1; Ex. 1(A), page 1.

3. SICH is a direct and wholly owned subsidiary of Royal Indemnity Company. N.T. page 11, lines 7-8.

4. Royal Group, Inc. (“Royal Group”) is an upstream holding company for GNIC and SICH. Ex. 1(A), page 1.

Description of the Instant Proceeding

5. Pursuant to 18 Del. C. §4930, no Delaware domestic stock insurer may merge with another insurer unless an application for approval of the plan and agreement for merger has been filed with and approved by the Delaware Insurance Commissioner (“Commissioner”).

6. GNIC and SICH propose to enter into and consummate an Agreement and Plan of Merger (“Merger Agreement”).

7. In this matter, GNIC and SICH seek the Commissioner’s approval to merge GNIC with and into its parent, SICH. Brown N.T. page 22, lines 6-11; Ex. 1(A), page 1. If the merger is approved, SICH will be the surviving entity and operate as a Delaware domestic insurance company.

8. As Delaware domestic insurers, both GNIC and SICH are required to make the filing required by 18 Del. C. §4930 and secure the Commissioner’s approval prior to consummating the proposed merger.

9. Both GNIC and SICH are the “Applicants” in this proceeding.

10. The proposed merger has not yet been effectuated.

11. The Applicants request approval to consummate the merger with an effective time of 11:59 p.m. on December 31, 2006.

Procedural History

12. The Docket in this matter is attached hereto for reference as Appendix A.

13. An application was filed with the Delaware Insurance Department (“Department”) on September 28, 2006 seeking approval for the Applicants’ proposed merger (“Merger Application”). Docket No. 1. The Merger Application erroneously identifies the date of filing as September 28, 2005.

14. On or about October 6, 2006, the Department made an initial determination that the Merger Application as submitted contained a plan and agreement for the merger as required

by 18 Del. C. §4930(b).

15. 18 Del. C. §4930(b) requires that the Commissioner hold a hearing before issuing a determination as to whether to approve or disapprove the Merger Application.

16. The Delaware Administrative Procedures Act (29 Del. C. §10101 *et seq.*) (the “APA”) requires that the administrative agency itself (in this case, the Department) or a designated subordinate conduct and preside over any hearing held before the Department. 29 Del. C. §10125(a). As the Department’s head, the Commissioner is permitted, pursuant to 19 Del. C. §307(b), to appoint a person to act as a Hearing Officer and to conduct and preside over such hearings.

17. On October 16, 2006, the Commissioner issued an Order appointing Linda S. Kaiser to be the Hearing Officer for the hearing on the Merger Application, to have the authority to conduct and preside over any and all proceedings as permitted by Sections 10121 through 10125 of the APA, and to report her findings and recommendations to the Commissioner upon the conclusion of the proceedings as required by Section 10126 of the APA. Docket No. 3. A copy of that October 16, 2006 Order is attached hereto for reference as Appendix B. See also <http://www.state.de.us/inscom/departments/rsa/GNHearingOfficer.pdf>

18. 29 Del. C. §10122 requires that at least 20 days notice of the hearing must be given to the Applicants.

19. On October 17, 2006, the Commissioner issued notice that a hearing would be held to address the proposed merger of GNIC with and into SICH. The hearing was scheduled for November 21, 2006 at 9:00 a.m. to be held at the Department’s offices in Dover, Delaware. Docket No. 4. A copy of that October 17, 2006 Order is attached hereto for reference as Appendix C. See also <http://www.state.de.us/inscom/departments/rsa/GNHearingNotice.pdf>

20. 29 Del. C. §10124(1) requires that a notice of hearing must be published in at least two Delaware newspapers of general circulation.

21. The October 17, 2006 notice was published in the The News Journal, a daily newspaper published in New Castle County, Delaware, on October 18 and 19, 2006. Ex. 4.

22. The October 17, 2006 notice was published in the The Delaware State News, a daily newspaper published at Dover, Delaware, on October 19 and 20, 2006. Ex. 3.

23. The October 17, 2006 notice was posted on the Department's website on or about October 18, 2006.

24. The Merger Application contained a request that all information contained in the Merger Application be treated as confidential. Ex. 1, page 2. That request subsequently was withdrawn by the Applicants. N.T. page 30, lines 4-5.

25. Pursuant to Section 10112 of the APA, the Merger Application was available for public inspection after withdrawal of the confidentiality request by the Applicants. N.T. page 30, lines 6-8.

26. The October 17, 2006 notice directed any person seeking a determination on any pre-hearing issue relating to the Merger Application to file a written application on or before November 3, 2006.

27. The October 17, 2006 notice further instructed any person desiring to make oral comments at the hearing regarding the Merger Application to submit a written application on or before November 17, 2006.

28. The October 17, 2006 notice further directed any person wishing to make written comments regarding the Merger Application to file such comments on or before November 17, 2006.

29. On November 3, 2006, through their respective counsel, the following corporations submitted various pre-hearing filings at both Docket No. 312 (this proceeding) and Docket No. 313 (a separate proceeding involving the Applicants and some of their affiliates):

- (a) Student Loan Corporation
- (b) DaimlerChrysler Corporation
- (c) Federal-Mogul Corporation

Docket Nos. 15-17; 21-23; and 25.

30. On November 6, 2006, counsel for Federal-Mogul Corporation advised that its November 3 documents submitted under Docket No. 312 were submitted in error and were not intended for consideration in this proceeding. Docket No. 26.

31. On November 8, 2006, counsel for DaimlerChrysler Corporation advised that its November 3 documents submitted under Docket No. 312 were submitted in error and were not intended for consideration in this proceeding. Docket No. 27.

32. The November 3 pre-hearing filings submitted under Docket No. 312 by Federal-Mogul Corporation and DaimlerChrysler Corporation were not ruled upon by the Hearing Officer and the substance of those filings was not considered by the Hearing Officer in the preparation of her Proposed Decision.

33. As permitted by the Commissioner's October 17, 2006 notice, the Applicants responded to Student Loan Corporation's pre-hearing filings on November 14, 2006. Docket No. 29.

34. The Department responded to Student Loan Corporation's pre-hearing filings on November 16, 2006. Docket No. 31.

35. On November 16, 2006, the Hearing Officer issued an Order addressing the pre-hearing filings submitted by Student Loan Corporation, which Order is attached hereto as Appendix D and incorporated herein. Docket No. 31.

36. On November 17, 2006, Student Loan Corporation withdrew its pre-hearing filings submitted under Docket No. 312. A copy of that letter is attached hereto as Appendix E. The November 17, 2006 letter is not listed as a Docket Exhibit and, to assure that the record in this matter is complete, I recommend that the Commissioner require its inclusion in the docket as Docket No. 33.

37. The November 16, 2006 Order issued by the Hearing Officer stated that an Opinion in support of such Order would be included in the Hearing Officer's Recommended Findings of Fact, Conclusions of Law and Decision. An Opinion in support of the November 16, 2006 Order is not included herewith, because the matters addressed therein were rendered moot

in light of the November 17, 2006 letter from Student Loan Corporation (proposed Docket No. 33) withdrawing its pre-hearing filings in this matter.

38. The substance of the November 3 pre-hearing filings submitted under Docket No. 312 by Student Loan Corporation was not considered by the Hearing Officer in the preparation of her Proposed Decision.

39. The hearing in this matter was held on November 21, 2006. A transcript of this hearing was made. N.T. pages 1-34.

40. Prior to the hearing, an attendance sheet was circulated among the audience members. Ex. 5. Although several attendees indicated an intent to offer public comment, upon inquiry at the hearing, it was learned that the commenters were interested in another proceeding involving Royal Group's insurer affiliates, at Docket 313, which was scheduled to commence immediately upon the conclusion of the proceedings in this matter at Docket 312. N.T. page 31, lines 11-14.

41. No public comments were received in this proceeding.

42. On November 29, 2006, the Applicants submitted a Proposed Order and Recommendations for the Hearing Officer's Consideration. So that the record in this matter is complete, the Hearing Officer recommends that the Commissioner direct the Department to include this document in the docket as Docket No. 34.

43. On November 29, 2006, the Department submitted a letter concurring with and adopting the Proposed Order and Recommendations prepared by the Application. Proposed Docket No. 34. The Hearing Officer recommends that the Commissioner direct the Department to include this document in the docket as Docket No. 35.

Testimony and Evidence

44. The Merger Application (Ex. 1) including the Merger Agreement (Ex. 1(A)) was admitted into evidence at the hearing. Four other exhibits were admitted into evidence, all of which are described herein.

45. Appearing as counsel for the Applicants were Robert Lewin, Esq., Stroock, Stroock & Lavan, LLP; James McC. Geddes, Esq., Ashby & Geddes; and Michael W. Teichman, Esq., Parkowski Guerke & Swayze, P.A.

46. Appearing as counsel for the Department were Michael J. Rich, Esq., Deputy Attorney General; Fredric Marro, Esq., Fredric Marro & Associates, P.C.; James J. Black, III, Esq., Black and Gerngross, P.C.; and Jeffrey B. Miceli, Esq., Black and Gerngross, P.C.

47. The Applicants presented testimony by one witness, Sean A. Beatty, who is a senior vice president and the chief financial officer of both GNIC and SICH.

48. The Department presented testimony by one witness, Rylynn Brown, CPA, CFE, an insurance financial analyst employed by the Department.

49. No other person presented testimony at the hearing.

50. The testimony given by the Applicants and the Department was considered credible by the Hearing Officer and accepted in preparing her Proposed Decision.

51. Mr. Beatty testified that Royal Group and its affiliates have been in the process of reducing the number of their U.S. domestic insurance carriers over the past several years from twenty-five (25) to four (4) through a series of mergers and other transactions, several of which were subject to approval by, and previously were approved by, the Department. Beatty N.T. page 10, lines 10-16; Ex. 1, page 1.

52. The stated objective of Royal Group and its affiliates in reducing the number of their U.S. domestic insurance carrier subsidiaries is to simplify their corporate structure, reduce the expense associated with company maintenance and financial reporting, allow for a more efficient utilization of capital, improve efficiencies in the management of the surviving

company's investment portfolio, and facilitate regulatory oversight. Beatty N.T. page 10, lines 17-21 page 14, lines 5-15. See also Brown N.T. page 22, lines 22-24; page 23, lines 1-4. Ex. 1, page 1.

53. Mr. Beatty testified that the Applicants expect to achieve expense reductions as a result of the merger because the costs of maintaining separate legal entities, including audit, banking, custodial and filing fees, and financial reporting costs, will be eliminated. Beatty N.T. page 14, lines 5-10.

54. Mr. Beatty testified that the merger is also expected to permit SICH, as the surviving entity, to reduce the probability of realizing an investment loss and to maximize investment gains. Beatty N.T. page 14, 11-24.

55. GNIC and SICH currently are managed by the same personnel. Beatty N.T. page 11, lines 11-12.

56. In previous years, both companies wrote similar types of business, including general liability and private passenger auto. Beatty N.T. page 11, lines 11-21.

57. Both GNIC and SICH no longer write new business and are now in runoff. Beatty N.T. page 12, lines 8-9.

58. Mr. Beatty testified that, following the merger, SICH would bear a 30% participation share of the Royal Indemnity intercompany reinsurance pooling arrangement, representing the combined percentage shares of GNIC and SICH as are effective currently. Beatty N.T. page 15, line 8-12.

59. In her testimony, Ms. Brown affirmed the continuation of the 30% participation share by SICH after the merger. Brown N.T. page 24, lines 10-14.

60. The current policyholder surplus of SICH will not decrease as a result of the merger. Beatty N.T. page 15, lines 5-8.

61. As of September 30, 2006, SICH's statutory capital and surplus was approximately \$239,000,000. Beatty N.T. page 12, lines 10-14.

62. Mr. Beatty testified that SICH is projected to remain in a satisfactory financial condition for the five (5) years after the merger. Beatty N.T. page 15, lines 1-5.

63. The pro forma financial statements submitted with the Merger Application show that SICH's surplus as regards policyholders is projected to be \$239,257,000 as of December 2006, following the merger, with a risk based capital ratio of 6.1. Ex. 1(C), page 5.

64. The pro forma financial statements submitted with the Merger Application show that SICH's policyholder surplus is projected to decrease each year during such five year period. Ex. 1(C), pages 5, 13, 21, 29 and 37. SICH's policyholder surplus at December 31, 2010 is projected to be \$143,163,000, with a risk based capital ratio of 7.2.

65. No management personnel will receive any fee as a result of the proposed merger. Beatty N.T. page 13, lines 8-13; page 15, lines 23-24 and page 16, lines 1-2. See also Brown N.T. page 25, lines 1-8.

66. Ms. Brown testified that the Applicants submitted an affidavit to the Department that no fees would be paid to any director, officer, agent or employee. The affidavit referenced in Ms. Brown's testimony was not introduced into evidence and was not considered by the Hearing Officer in preparing her Proposed Decision.

67. Both GNIC and SICH are Delaware domestic insurers, regulated by the Department, whose Certificates of Authority are in good standing. Brown N.T. page 22, lines 8-13; Brown N.T. page 23, lines 8-16.

68. There are no orders, conditions or sanctions issued by the Department outstanding against either GNIC or SICH. Brown N.T. page 26, lines 15-18.

69. Both GNIC and SICH have made all required financial statement filings with the Department and the Department has found such filings to be filed in compliance with the Insurance Code. Brown N.T. page 26, lines 5-8. No such filings were introduced into evidence or considered by the Hearing Officer in preparing her Proposed Decision.

70. Each of the Board of Directors of GNIC and SICH approved the Merger Agreement on August 22, 2006. Beatty N.T. page 13, lines 14-16; Ex. 1(B); Ex. 2.

71. The sole stockholder of GNIC (SICH) ratified the proposed merger on August 22, 2006. Beatty N.T. page 13, lines 17-20.

72. The sole stockholder of SICH (Royal Indemnity Company) ratified the proposed merger on August 22, 2006. Beatty N.T. page 13, lines 17-20.

73. Mr. Beatty testified that the Applicants were unaware of any reasonable objection to the merger. Beatty N.T. page 16, lines 2-5.

74. Ms. Brown testified that the Department was unaware of any material or reasonable objection to the merger. Brown N.T. page 24, lines 16-18.

75. The Merger Agreement admitted into evidence was not dated or executed. Ex. 1(A), page 5.

76. The Applicants represented at the hearing a Certificate of Merger would be filed with the Division of Corporations as of the effective date of the merger, if the Commissioner approves the merger. Beatty N.T. page 12, lines 22-24.

77. The Department recommended approval of the Merger Application. Brown N.T., page 25, lines 12-14.

78. If any of the above Recommended Findings of Fact are determined to be conclusions of law, the Hearing Officer intends that the matters be so construed.

II. RECOMMENDED CONCLUSIONS OF LAW

Legal Standards Applicable to Any Approval or Disapproval

79. Chapter 49 of the Insurance Code (18 Del. C. §4901 *et seq.*) (the “Act”) sets forth the requirements and procedures for an application for approval of a merger involving one or more Delaware domestic stock insurance companies.

80. Chapter 49 is the governing statute applicable to the Merger Application.

81. Section 4930(b) of the Act establishes the standards for granting approval of the Merger Application.

82. Under Section 4930(b), the Commissioner is required to approve the Merger Application unless the Commissioner finds that the merger plan or agreement:

- (a) Is contrary to law;
- (b) Is unfair or inequitable to the stockholders of GNIC or SICH;
- (c) Would substantially reduce the security of and service to be rendered to policyholders of the GNIC or SICH in Delaware or elsewhere;
- (d) Would materially tend to lessen competition in the insurance business in Delaware or elsewhere as to the kinds of insurance involved or would materially tend to create a monopoly as to such business; or
- (e) Is subject to other material and reasonable objections.

83. Pursuant to Section 4930(c), the Commissioner may not approve the proposed merger if any director, officer, agent or employee of GNIC or SICH receives, or is to receive, any fee, commission, compensation or other valuable consideration whatsoever for aiding, promoting or assisting in any manner with the proposed merger.

84. Pursuant to Section 4930(b)(1), the proposed merger must comply with the applicable provisions of the Delaware statutes governing the merger of for-profit stock corporations, in addition to complying with Section 4930 of the Insurance Code.

85. 8 Del. C. §251 of the General Corporation Law sets forth the requirements and procedures for the merger of two or more Delaware domestic corporations, and is applicable to the proposed merger.

86. Pursuant to Section §251(b), the Merger Agreement must state the following:¹

- (a) The terms and conditions of the merger;
- (b) How the merger will be effected;
- (c) Any amendments to or changes in the certificate of incorporation of the surviving corporation as will be effected by the merger or, if no such amendments or changes are intended, a statement that the certificate of incorporation of the surviving corporation will remain its certificate of incorporation; and

¹ The Merger Agreement may also contain such other details or provisions as are deemed desirable. 8 Del. C. §251(b)(6).

- (d) The manner of canceling some or all of the shares of the non-surviving corporation, and, if any shares of any of such corporation will not remain outstanding, the consideration the stockholders will receive in exchange for such shares.

87. Article 1.2 of the Merger Agreement erroneously cites to 8 Del. C. §252. That law applies to the merger of a foreign and a domestic corporation and is not applicable to the proposed merger.

Procedural Matters

88. Section 4930(b) of the Act requires that a hearing be held on the Merger Application. A proceeding, which was announced to and open to the public, was scheduled and held on November 21, 2006 whereat testimony and evidence was presented by the Applicants and the Department regarding the Merger Application. This proceeding was a hearing held as required by Section 4930(b).

89. 29 Del. C. §10122 requires that at least 20 days notice of the hearing must be given to the Applicants. The October 17, 2006 notice (Docket No. 4) scheduling the November 21, 2006 hearing was provided to the Applicants on October 18, 2006. Beatty N.T. page 11, lines 8-10. The notice of hearing complied with Section 10122.

90. Pursuant to Section 4930(b), the stockholders of each insurer are required to receive notice of the public hearing. SICH is the sole stockholder of GNIC and received notice of the hearing on October 18, 2006. Beatty N.T. page 11, lines 8-10. Royal Indemnity Company is the sole stockholder of SICH and received notice of the hearing on October 18, 2006. Beatty N.T. page 11, lines 7-10

91. The pre-hearing processes established in this matter properly afforded members of the public with access to the Merger Application, reasonable notice regarding the scheduled public hearing, and a reasonable opportunity to present written or oral comments for the Commissioner's consideration.

92. Persons desiring to make oral comment at the hearing were requested to identify themselves at least three (3) days in advance of the hearing and to briefly describe the topics or

issues to be addressed at such time. Such processes were designed to facilitate the management of the facilities required for the hearing and the conduct of the hearing itself.

93. Persons desiring to submit written comments on the Merger Application were required to submit written comments at least three (3) days in advance of the hearing. No page limitation or other restriction was placed on the materials that could be submitted by commenters. The processes implemented for written comments were designed to permit the Hearing Officer and ultimately the Commissioner to become aware of any matters identified by members of the public and to facilitate the conduct of the hearing.

III. RECOMMENDED DECISION

94. In this matter, the Commissioner is called upon to approve or disapprove the Merger Application filed by GNIC and SICH pursuant to 18 Del. C. §4930. The Commissioner is required to approve the Merger Application unless the Commissioner finds that the Merger Agreement fails to meet any of the five (5) standards set forth in Section 4930(b). Each of these standards is discussed separately below.

Compliance with Law

95. 18 Del. C. §4930(b)(1) requires that the Commissioner consider whether the Merger Application is in compliance with the law. Section 4930(a) – (c) of the Act establishes the compliance standards for the Merger Application under insurance laws.

96. Pursuant to Section 4930(a) of the Act, a domestic stock insurer shall not merge with any corporation that is not formed for the purpose of transacting insurance as an insurer. Both GNIC and SICH are Delaware domestic insurance companies whose Certificates of Authority are in good standing. To obtain and maintain a Certificate of Authority, a corporation's charter documents must authorize the corporation to transact business as an insurer. Therefore, the current Certificates of Authority demonstrate that both GNIC and SICH were formed for the purpose of transacting insurance as an insurer. Accordingly, the proposed merger complies with Section 4930(a).

97. Pursuant to Section 4930(b), the proposed merger may not be effectuated unless the Merger Agreement has been filed with and approved by the Commissioner. The proposed

Merger Agreement was filed with the Department and introduced into evidence at the hearing, and the proposed merger has not yet been effectuated. Therefore, the proposed merger complies with Section 4930(b).

98. Pursuant to Section 4930(c), no director, officer, agent or employee of GNIC or SICH may receive any fee, commission, compensation or other valuable consideration for aiding, promoting or assisting with the proposed merger. No management personnel will receive any fee as a result of the proposed merger. Therefore, the proposed merger complies with Section 4930(c).

99. 8 Del. C. §251 of the Delaware General Corporation Law establishes the compliance standards for the Merger Application under corporate laws. Section 251(a) authorizes any two corporations existing under the laws of Delaware to merge into a single corporation, which may be any one of the constituent entities pursuant to an agreement of merger. The Merger Application contemplates this structure and therefore complies with Section 251(a).

100. Section 251(b) requires the board of directors of each corporation that desires to merge to adopt a resolution approving an agreement of merger and declaring its advisability. Each of the Board of Directors of GNIC and SICH approved the Merger Agreement on August 22, 2006.

101. As stated in the Recommended Conclusions of Law, Section §251(b) requires that the Merger Agreement contain certain enumerated information. The Merger Agreement addresses the requirements of 251(b) as follows:

- (a) The terms and conditions of the merger are stated therein. Ex. 1(A).
- (b) Article 1.1 states how the merger will be effected.
- (c) Article 2.1 states that the charter of SICH prior to the merger shall be the charter of the surviving corporation after the merger. See also Beatty N.T. page 13, lines 4-7.
- (d) Article 4.1 states the effect the merger shall have on the stock of GNIC and specifically provides that the all of GNIC's stock issued and outstanding immediately prior to the effective time of the merger shall by virtue of the merger and without any action on the part of SICH, cease to be outstanding, shall be

canceled and retired without payment of any consideration therefore, and shall cease to exist.

The Merger Application addresses the specified elements and therefore complies with this portion of Section 251(a).

102. 8 Del. C. §251(b) additionally requires that the Merger Agreement must be executed in accordance with 8 Del. C. §103 prior to consummation of the merger. The Merger Agreement admitted into evidence was not dated or executed. However, upon satisfaction of the Recommended Conditions (defined below), the Merger Application will comply with this portion of Section 251(b).

103. Section 251(c) requires, except under circumstances not relevant herein, that the Merger Agreement be submitted to the stockholders of each of GNIC and SICH. The sole stockholder of GNIC (that is, SICH) ratified the proposed merger on August 22, 2006. The sole stockholder of SICH (Royal Indemnity Company) ratified the proposed merger on August 22, 2006.

104. Section 251(c) further provides that if the merger is approved by a majority of the stockholders, upon the merger, the instruments required by 8 Del. C. §103 must be filed with the Secretary of State. The Applicants represented at the hearing that a Certificate of Merger would be filed with the Division of Corporations as of the effective date of the merger. Upon satisfaction of the Recommended Conditions set forth herein, the Merger Application satisfies the requirements of Section 251(c).

105. The Applicants represented at the hearing that the California Insurance Commissioner is required to approve the merger before the transaction may be consummated and that such approval had not been issued as of the hearing date in this matter. Beatty N.T. page 13, lines 21-24. Upon satisfaction of the Recommended Conditions set forth herein, the Merger Application satisfies applicable law with respect to obtaining approval from the California Insurance Commissioner.

106. There was no evidence introduced into the record in the matter demonstrating that the merger would be contrary to law. The record in this matter does not present a basis for disapproval under Section 4930(b)(1).

Unfairness or Inequity to Applicant Insurers' Stockholders

107. Section 4930(b)(2) requires that the Commissioner consider whether the Merger Agreement is unfair or inequitable to the stockholders of either GNIC or SICH.

108. The stockholders of the Applicants will have the opportunity to benefit from the stated objective of Royal Group and its affiliates in reducing the number of their U.S. domestic insurance carrier subsidiaries through the simplification of their corporate structure, any expense reduction associated with company maintenance and financial reporting, and the opportunity for more efficient utilization of capital and improved efficiencies in the management of SICH's investment portfolio. Applicants' stockholders will have the opportunity to benefit from expense reductions arising from lowered costs for maintaining separate legal entities, including audit, banking, custodial and filing fees, and financial reporting costs. Applicants' stockholders also will have the opportunity to benefit from the opportunity for SICH, as the surviving entity, to reduce the probability of realizing an investment loss and to maximize investment gains.

109. The proposed merger is not unfair or inequitable to shareholders of either GNIC or SICH because, as affiliated entities, it is appropriate that no compensation will be paid under the Merger Agreement to SICH as GNIC's sole stockholder. Further, the stockholders of both GNIC and SICH ratified the Merger Agreement on August 22, 2006, evidencing the stockholders' judgment as to the fairness and equity of the proposed merger to them.

110. The Department's witness, Ms. Brown, testified that the Department found no unfairness or inequity to the stockholders of either GNIC or SICH. The Department's analysis in this regard focused on (a) whether the Board of Directors and sole stockholder of each company had approved or ratified the Merger Agreement, (b) the fact that GNIC and SICH are affiliated companies, and (c) the expense reduction and efficiency benefits expected to result from the merger. Brown N.T. page 22, lines 16-22; page 23, lines 2-4.

111. There was no evidence introduced into the record in this matter demonstrating that the merger would be unfair or inequitable to GNIC's sole stockholder, SICH. There was no evidence introduced into the record in the matter demonstrating that the merger would be unfair or inequitable to SICH's sole stockholder, Royal Indemnity Company. The record in this matter does not present a basis for disapproval under Section 4930(b)(2).

Security of and Service to Policyholders

112. Section 4930(b)(3) requires that the Commissioner consider whether the proposed merger would substantially reduce the security of and service to be rendered to policyholders of either GNIC or SICH, whether in Delaware or elsewhere.

113. GNIC and SICH currently are managed by the same personnel. Both companies wrote similar types of business, including general liability and private passenger auto. Accordingly, service to policyholders may reasonably be presumed to continue at its present level without reduction after the merger. There was no evidence introduced into the record in the matter demonstrating that the merger would substantially reduce the service to be rendered to policyholders of either GNIC or SICH, whether in Delaware or elsewhere.

114. Regarding security to policyholders, as noted in the Recommended Findings of Fact, Applicants expect to achieve certain expense reductions as a result of the merger. The merger is also expected to permit SICH, as the surviving entity, to reduce the probability of realizing an investment loss and to maximize investment gains. Expense reductions and investment gains will improve SICH's financial condition beyond what it would be without such measures, and thereby add to the security available to policyholders.

115. The merger will not cause a change in the combined level of participation by GNIC and SICH in the Royal Indemnity intercompany reinsurance pooling arrangement. Following the merger, SICH will bear a 30% participation share of the intercompany pooling arrangement, representing the combined percentage shares of GNIC and SICH as are effective currently. Policyholder security will be unaffected by SICH's continuation in the intercompany reinsurance pool.

116. The current policyholder surplus of SICH will not decrease as a result of the merger. As of September 30, 2006, SICH's statutory capital and surplus was approximately \$239,000,000. SICH's surplus as regards policyholders is projected to be \$239,257,000 as of December 2006, following the merger.

117. SICH projects that it will remain in a satisfactory financial condition for the five (5) years after the merger. However, the pro forma financial statements submitted with the

Merger Application show that SICH's policyholder surplus is projected to decrease each year during such five year period. SICH's policyholder surplus at December 31, 2010 is projected to be \$143,163,000. The Applicants did not present any testimony at the hearing regarding the pro forma financial statements, other than noting their inclusion in the Merger Application. The Applicants did not present any assumptions that were used in developing the pro forma financial statements at the hearing or in the exhibits admitted into evidence. Without the assumptions used in developing the pro formas, the pro formas themselves are of limited probative value.

118. Applicants project that as of December 31, 2006, following the merger, SICH will have a risk based capital ("RBC") ratio of 6.1. Applicants project that as of December 31, 2010, SICH will have a RBC ratio of 7.2. While SICH's policyholder surplus is expected to decrease in the next five years, SICH expects that its RBC ratio will improve. RBC ratios are a regulatory tool used to analyze an insurer's financial condition and is determined using a complicated formula developed by the National Association of Insurance Commissioners ("NAIC"). A higher RBC ratio is some indication that the insurer is in a better financial condition than an insurer with a lower RBC ratio. A RBC ratio of 6.1 or 7.2 exceeds the threshold for required insurer-initiated action to address issues relating to its financial condition.² SICH's pro forma RBC ratios also exceed the threshold for required regulatory intervention to address an insurer's financial condition.

119. The Department's witness testified that there is no basis for the conclusion that the merger would reduce the security of policyholders because both GNIC and SICH are regulated by the Department and are currently in good standing. Brown N.T. page 23, lines 8-16. When asked whether the required financial statements filed by GNIC and SICH were satisfactory to the Department, Ms. Brown testified: "The Department has found them to have been filed in compliance with the [Insurance] code...." Brown N.T. page 26, lines 5-8. The Department presented no further testimony regarding the existing financial condition of SICH or the anticipated financial condition of SICH after the merger, and did not specifically address the pro formas at the hearing.

120. Notwithstanding the scant evidence presented at the hearing and in the admitted exhibits regarding SICH's current and projected financial condition, the record in this matter did

² Such action is required if an insurer's RBC ratio is less than 2.0. 18 Del. C. §§5801(10(a) and 5803.

not demonstrate that the merger would substantially reduce the security of policyholders of GNIC or SICH after the merger, whether in Delaware or elsewhere. The record in this matter does not present a basis for disapproval under Section 4930(b)(3).

Materially Lessen Competition or Tend to Create a Monopoly

121. Section 4930(b)(4) requires that the Commissioner consider whether the proposed merger would materially tend to lessen competition or create a monopoly in the insurance marketplace in Delaware.

122. Unlike mergers and other changes in control that are governed by 18 Del. C. §5003, the Commissioner is not required by Section 4930 to apply the analytical framework set forth in 18 Del. C. §5003A to gauge the competitive effect of the proposed merger. Nevertheless, it would not be inappropriate for the Commissioner to rely upon the analytical framework set forth in Section 5003 to guide his evaluation as to whether the proposed merger would materially tend to lessen competition or create a monopoly in Delaware, particularly because mergers that are not governed by Section 4930 would be subject to a Section 5003A analysis.

123. Under Section 5003A(b)(2)e, the Commissioner must conduct an competitive analysis to determine, inter alia, whether there would be an increase in any market share of any of the involved insurers as a result of the acquisition. However, under Section 5003A(d), no competitive analysis is required if the transaction involves the merger of already affiliated insurers.

124. SICH is the parent of GNIC; thus, GNIC and SICH are affiliated insurers. The combined market share of GNIC and SICH, and their affiliated insurers, will not change as a result of the proposed merger. Further, both GNIC and SICH no longer write new business and are now in runoff. Competition in the insurance marketplace in Delaware will not be affected by the merger of two insurers that no longer write new business. Because both GNIC and SICH are in runoff, there is no possibility that the merger would tend to create a monopoly by the surviving entity (SICH) in the insurance marketplace in Delaware.

125. There was no evidence introduced into the record in the matter demonstrating that the merger would materially tend to lessen competition or create a monopoly in the insurance marketplace in Delaware. The record in this matter does not present a basis for disapproval under Section 4930(b)(4).

Other Objections

126. Section 4930(b)(4) requires that the Commissioner consider whether the proposed merger is subject to other material and reasonable objections.

127. The Applicants and the Department are unaware of any material or reasonable objection to the merger. Indeed, the Department recommended approval of the Merger Application.

128. Student Loan Corporation, DaimlerChrysler Corporation and Federal-Mogul Corporation initially indicated an intent to participate in and/or comment on the proposed merger. However, subsequently all three entities withdrew their requests to participate or comment in this matter. Counsel for all three entities attended the hearing held in this matter but did not offer comment when presented with the opportunity to do so. Additionally, there were approximately 50 audience members at the hearing and no comments were offered when the audience was presented with the opportunity to do so.

129. The public generally and interested persons were given a full and adequate opportunity to raise objections to and comment on the proposed merger. However, no person submitted any oral or written comments or raised any objections regarding the proposed merger.

130. There was no evidence introduced into the record in this matter demonstrating that the merger is subject to any material or reasonable objection. The record in this matter does not present a basis for disapproval under Section 4930(b)(5).

131. If any of the above Recommended Conclusions of Law are determined to be findings of fact, the Hearing Officer intends that the matters be so construed.

IV. CONCLUSION

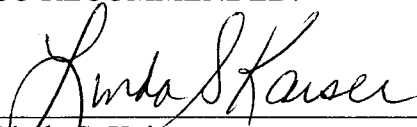
132. Based upon the Recommended Finding of Facts and Conclusions of Law, the Hearing Officer recommends that the Merger Application be approved by the Commissioner, subject to the following conditions (“Recommended Conditions”):

- (a) The Applicants shall provide the Department with a copy of any approval of the merger issued by the California Insurance Commissioner within five (5) days of receipt of such approval;
- (b) The Applicants shall not amend the Merger Agreement from the form contained at Exhibit 1 except such changes thereto, if any, as are of a nonmaterial nature;
- (c) The Applicants shall provide the Department with a dated and fully executed copy of the Merger Agreement within five (5) days of the effective date of the merger, and shall identify any changes made to the Merger Agreement from the form contained at Exhibit 1;
- (d) The Applicants shall provide the Department with a copy of the Certificate of Merger filed with the Secretary of State within (5) days of such filing;
- (e) If this merger is not effectuated within 90 days of the date of the Commissioner’s Order approving the merger, the Applicants shall immediately notify the Department that the merger has not be consummated; and
- (f) SICH, and until the merger GNIC, shall continue to be subject to the jurisdiction of the Department for purposes of implementing the terms of the Commissioner’s Order.

133. It is further recommended that the following be added to the docket in this matter

- (a) The November 17, 2006 letter from counsel for Student Loan Corporation;
- (b) The November 29, 2006 Proposed Order and Recommendations submitted by the Applicants; and
- (c) The November 29, 2006 letter from the Department concurring with and adopting the Proposed Order and Recommendations submitted by the Applicants.

SO RECOMMENDED:



Linda S. Kaiser
Hearing Officer

Date: December 7, 2006

HEARING OFFICER'S
RECOMMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DECISION

ATTACHMENT A

THE INSURANCE DEPARTMENT OF THE STATE OF DELAWARE

IN THE MATTER OF:

**The Proposed merger of Guaranty National
Insurance Company, a Delaware domiciled
property/casualty insurance Company with and
into Security Insurance Company of Hartford,
a Delaware domiciled property/casualty
insurance company.**

Docket No. 312

DOCKET

Docket No.	Date	Description
1	10/2/06	Application for Merger filed at Department of Insurance
2	10/11/06	Unanimous Consents
3	10/16/06	Order appointing Linda S. Kaiser, Esq. hearing officer
4	10/17/06	Notice of Public Hearing
5	10/27/06	Motion and Order for Pro Hac Vice—James J. Black, Esq.
6	10/27/06	Motion and Order for Pro Hac Vice—Jeffrey B. Miceli, Esq.
7	10/27/06	Motion and Order for Pro Hac Vice—Fredric Marro, Esq.
8	10/27/06	News Journal Affidavit of Publication of Notice of Hearing
9	10/27/06	State News Affidavit of Publication of Notice of Hearing
10	10/27/06	Motion and order for Pro Hac Vice—Robert Lewin, Esq.
11	10/27/06	Motion and order for Pro Hac Vice—William W. Rosenblatt, Esq.
12	10/27/06	Motion and order for Pro Hac Vice—Bernhardt Nadell, Esq.
13	10/27/06	Motion and order for Pro Hac Vice—Regan A. Shulman, Esq.
14	11/3/06	Motion and order for Pro Hac Vice—James F. Meehan, Esq.
15	11/3/06	SLC motion for party status
16	11/3/06	SLC motion for leave to take discovery and for continuance of 11/21/06 hearing
17	11/3/06	SLC motion for recusal of hearing officer
18	11/3/06	SLC motion for Pro Hac Vice—Michael D Raibman, Esq.
19	11/3/06	SLC motion for Pro Hac Vice—Gary S. Thompson, Esq.
20	11/3/06	SLC Certificate of service
21	11/8/06	DC motion for party status
22	11/3/06	DC motion for leave to take discovery and for continuance of 11/21/06 hearing
23	11/3/06	DC motion for recusal of hearing officer
24	11/3/06	DC certificate of service
25	11/3/06	FM statement of interest and request to participate in proceeding
26	11/6/06	FM letter withdrawing from interest in Docket 312
27	11/8/06	DC letter withdrawing from interest in Docket 312

28	11/08/06	SLC letter confirming its request for relief in Docket 312
29	11/14/06	GN and SI Letter Brief in Opposition to the Motions of the SLC to be Admitted as a Party in this Proceeding, for Discovery, and for a Continuance of the November 21, 2006 Hearing
30	11/16/06	Black letter to docket file describing attached filings
31	11/16/06	DID Response to SLC's Application for Admission as a Party and Application for Recusal of Hearing Officer
32	11/17/06	Hearing Officer Order on Pre-Hearing Matters

HEARING OFFICER'S
RECOMMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DECISION

ATTACHMENT B

THE INSURANCE DEPARTMENT OF THE STATE OF DELAWARE

IN THE MATTER OF:)

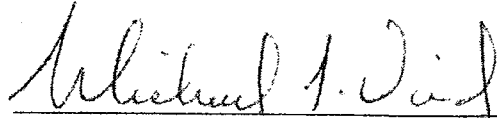
The Proposed merger of Guaranty National)
Insurance Company, a Delaware domiciled)
property/casualty insurance Company with and)
into Security Insurance Company of Hartford,)
a Delaware domiciled property/casualty)
insurance company.)

Docket No. 312

ORDER

COMES NOW, the Commissioner of Insurance who orders that Linda S. Kaiser, Esquire be appointed Hearing Officer in the above-captioned matter. The hearing officer shall have the authority to conduct and preside over any and all proceedings as permitted by 29 *Del. C.* §§ 10121-10126 and shall report her findings and recommendations to me upon the conclusion of the proceedings in the foregoing matter as required by 29 *Del. C.* § 10126.

SO ORDERED this 16th day of October 2006.



Michael L. Vild
Deputy Insurance Commissioner

HEARING OFFICER'S
RECOMMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DECISION

ATTACHMENT C

NOTICE OF PUBLIC HEARING

INSURANCE COMMISSIONER Matthew Denn hereby gives notice that a PUBLIC HEARING will be held at 9:00 a.m. or as soon thereafter as may be reasonable, on Tuesday, November 21, 2006, at the Department of Insurance, 1st Floor Consumers Conference Room, 841 Silver Lake Boulevard, Dover, DE 19904.

The purpose of the Hearing is to address the Application received by the Delaware Department of Insurance for approval of the Proposed Merger of GUARANTY NATIONAL INSURANCE COMPANY, a Delaware-domiciled property/casualty insurance company, with and into SECURITY INSURANCE COMPANY OF HARTFORD, a Delaware-domiciled property/casualty insurance company (collectively, the "Applicant"). If the Agreement and Plan of Merger is approved by the Delaware Department of Insurance, SECURITY INSURANCE COMPANY OF HARTFORD will be the surviving corporation. The Docket Number assigned to this Hearing is 312.

The Hearing will be conducted in accordance with the Delaware Administrative Procedures Act, 29 Del. C. Chapter 101. Any person wishing to file written comments on the proposed merger application may do so by filing said written comments no later than 4:30 p.m. EST Friday, November 17, 2006 as follows:

Original and one (1) copy to:

Docket File

Attn: Deputy Attorney General Michael J. Rich

c/o Delaware Department of Insurance

841 Silver Lake Boulevard

Dover, DE 19904

Tel. (302) 674-7326

Fax (302) 739-5566

Email michael.rich@state.de.us

Simultaneously with the filing, a copy of said written comments shall be served on the Applicant with a courtesy copy to the Hearing Officer, addressed as follows:

One (1) copy to:

Robert Lewin, Esquire

Stroock, Stroock & Lavan, LLP

Attorneys for the Applicant

180 Maiden Lane

New York, NY 10038-4982

Fax (212) 806-6006

Email rlewin@stroock.com

HEARING OFFICER'S
RECOMMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DECISION

ATTACHMENT D

THE INSURANCE DEPARTMENT OF THE STATE OF DELAWARE

IN THE MATTER OF:)
)
The Proposed merger of Guaranty National)
Insurance Company, a Delaware domiciled)
property/casualty insurance Company with and)
into Security Insurance Company of Hartford,)
a Delaware domiciled property/casualty)
insurance company)

Docket No. 312

ORDER ON PRE-HEARING MATTERS

1. In this matter, the applicants seek the Insurance Commissioner's approval of the merger of Guaranty National Insurance Company ("GNIC") with and into its parent, Security Insurance Company of Hartford (SICH"). Herein, GNIC and SICH collectively are referred to as Applicants.
2. On October 16, 2006, Matthew Denn, Insurance Commissioner for the State of Delaware, entered an Order appointing the undersigned Hearing Officer in the captioned matter.
3. On October 17, 2006, a Notice of Public Hearing ("Notice") was issued by the Insurance Commissioner. The Notice provided that any person seeking a determination of any pre-hearing issue relating to this matter must file a written application by November 3, 2006.
4. On November 3, 2006, Student Loan Corporation ("SLC") filed pre-hearing materials in the captioned matter. In addition to other requests, SLC sought party status in this matter under the Administrative Procedures Act, 29 Del. C. § 10102(6). Herein, such request shall be referred to as a Motion for Party Status.
5. SLC alleges that it is a policyholder under one or more policies issued by GNIC and/or SICH and maintains, inter alia, that it is entitled to or should be granted party status insofar as its interests as a policyholder will be affected by the proposed merger. SLC further maintains that insofar as its interests may be affected by the proposed merger, it has the right, inter alia, to present evidence, examine and cross-examine witnesses, offer written arguments, and conduct discovery.

6. On November 14, 2006, the Applicants filed a response to SLC's Motion for Party Status. Given the Election Day and Veteran's Day holidays, the Applicants' response was filed within the time frame set forth in the Notice.

7. On November 16, 2006, the Insurance Department ("Department") filed its response.

8. After reviewing the Motion for Party Status, the opposition to same, and relevant case law, statutes and regulations, the Motion for Party Status submitted by Student Loan Corporation is denied.

9. In addition to the Motion for Party Status, SLC also sought the Recusal of the Hearing Officer, and a postponement of the hearing and certain discovery in this matter. Insofar as the Motion for Party Status has been denied, these other requests are deemed moot and are thus, denied.

10. Insofar as the Motion for Motion Status has been denied, SLC's request for the opportunity to examine and cross-examine witnesses in this matter is deemed moot and is thus, denied.

11. Notwithstanding the denial of the Request for Party Status, the pre-hearing materials submitted by Student Loan Corporation will be considered as written comments on the proposed merger, pursuant to the Notice, without the need for such materials to be re-submitted by SLC. Notwithstanding the denial of their Motion for Party Status, SLC may present comments and arguments for the Commissioner's consideration as set forth in the Notice.

12. An Opinion in support of this Order shall be included in the Hearing Officer's Recommended Findings of Fact, Conclusions of Law, and Decision, which will be submitted to Commissioner Denn by the Hearing Officer following the conclusion of this proceeding.

SO ORDERED this 17th day of November 2006.

By: Linda S. Kaiser
Linda S. Kaiser, Hearing Officer

HEARING OFFICER'S
RECOMMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DECISION

ATTACHMENT E

ReedSmith

David E. Wilks
Direct Phone: 302.778.7560
Email: dwilks@reedsmith.com

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Suite 1500
Wilmington, DE 19801-1163
302.778.7500
Fax 302.778.7575

November 17, 2006

VIA E-MAIL (MICHAEL.RICH@STATE.DE.US) AND UPS OVERNIGHT

Michael J. Rich, Esquire
Deputy Attorney General
Delaware Department of Insurance
841 Silver Lake Blvd.
Dover, DE 19904-2465

Re: *In the Matter of the Proposed Merger of Guaranty National Insurance Company, et al.*,
Docket No. 312

Dear Mr. Rich:

Upon further consideration, The Student Loan Corporation ("SLC") has decided to withdraw its appearance in Docket No. 312 and continue to proceed only in Docket No. 313 (*In the Matter of the Proposed Acquisition of Royal Indemnity Company, et al.*). Accordingly, please maintain SLC's November 3, 2006 filings in Docket No. 313 only.

Thank you for your patience and SLC apologies for any inconvenience this may cause the Department of Insurance.

Very truly yours,

David E. Wilks / DJB

David E. Wilks

DEW:rs

cc: Hearing Officer Linda S. Kaiser, Esq. c/o Joseph J. Bellew, Esquire
Robert Lewin, Esquire
James McC. Geddes, Esquire
W. Harding Drane, Jr., Esquire
Timothy Jay Houseal, Esquire

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