

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

In Re: : Pursuant to Sections 1401, 1402  
: and 1403 of the Insurance Holding  
Application of Anthony P. Lekse in : Companies Act, Article XIV of the  
Support of the Request for Approval to : Insurance Company Law of 1921, Act  
Acquire Control of Allegheny Surety : of May 17, 1921, P. L. 682, as  
Company : amended, 40 P.S. §§991.1401,  
: 991.1402 and 991.1403  
: :  
: Order No. ID-RC-18-02

**DECISION AND ORDER**

AND NOW, on this 22nd day of March, 2018, Jessica K. Altman, Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”), hereby makes the following Decision and Order:

Pursuant to the Insurance Holding Companies Act and in consideration of the documents, presentations and reports received, as well as other inquiries and studies as permitted by law, the Commissioner hereby makes the following findings of fact:

**FINDINGS OF FACT**

**Identity of Parties**

Identity of PA Domestic Insurer

1. Allegheny Surety Company (“ASC”) is a domestic stock casualty insurance company organized pursuant to the laws of Pennsylvania with its principal place of business in Pittsburgh, Pennsylvania.
2. The Allegheny Group, Inc. (“Group”) is a domestic insurance holding company organized pursuant to the laws of Pennsylvania with its principal place of business in Pittsburgh, Pennsylvania. Group currently directly holds 100% of the issued and outstanding stock of ASC.

3. Paul C. Read (“Mr. Read”) is an individual with his principal place of business in Pittsburgh, Pennsylvania. Mr. Read currently directly holds approximately 27.985% of the issued and outstanding stock of Group.
4. Richard J. Taylor (“Mr. Taylor”) is an individual with his principal place of business in Pittsburgh, Pennsylvania. Mr. Taylor currently directly holds approximately 27.985% of the issued and outstanding stock of Group.
5. Mr. Read and Mr. Taylor are the ultimate controlling persons of ASC.

#### Identity of Applicant

6. Anthony P. Lekse (“Mr. Lekse”) is an individual with his principal place of business in Pittsburgh, Pennsylvania. Mr. Lekse currently directly holds approximately 1.57% of the issued and outstanding stock of Group.

#### **Acquisition Filing**

7. The Insurance Holding Companies Act, Article XIV of the Insurance Company Law of 1921, Act of May 17, 1922, P.L. 682, as amended, 40 P.S. §§991.1401 et seq. (“Insurance Holding Companies Act”), provides that all changes in control of domestic insurers must be filed with the Commissioner for approval or disapproval.
8. On December 26, 2017, the Insurance Department of the Commonwealth of Pennsylvania (“Department”) received an application (which together with all material received subsequently is hereinafter referenced as “Application”) from Mr. Lekse for approval to acquire control of ASC.
9. The Application was filed pursuant to Section 1402 of the Insurance Holding Companies Act.

#### **Department Procedures**

10. On January 13, 2018, the Department published notice in the *Pennsylvania Bulletin* that the Application was submitted by Mr. Lekse and such notice invited interested persons to submit comments to the Department regarding the Application for thirty days following the date of the publication (“Comment Period”).
11. The Department received no comments regarding the Application during the Comment Period.

### **Description of the Proposed Acquisition**

12. As described in the Application, Mr. Lekse has entered into three separate minority shareholder stock purchase agreements (“the Agreements”) with three minority shareholders.
13. As described in the Application and pursuant to the Agreements, Mr. Lekse intends to purchase a total of approximately 9.82% of the issued and outstanding common stock of Group from the three minority shareholders (“the Acquisition”).
14. As described in the Application, Mr. Lekse would fund the entire purchase price from cash on hand.
15. As described in the Application and subsequent to the Acquisition, Mr. Lekse would directly control approximately 11.39% of issued and outstanding stock of Group.
16. As described in the Application, Mr. Lekse would become an additional ultimate controlling person of ASC as a result of the Acquisition.

### **Standards for Review**

17. Section 1402(f)(1) of the Insurance Holding Companies Act establishes the standards for approval of an application for a change in control of a domestic insurer.
18. An application for a change in control must be approved unless the Department finds any one of certain enumerated conditions to be present.

#### Licensing Requirements

19. When analyzing an application for change in control under Section 1402 of the Insurance Holding Companies Act, the Commissioner reviews the requirements for continued licensure of the domestic insurer being acquired.
20. Specifically, the Department reviews whether the domestic insurer would 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 after the acquisition.
21. The lines of insurance for which an insurance company may be incorporated and become licensed to write are set out in Section 202 of the Insurance Company Law (40 P.S. §382).

22. The minimum paid up capital stock and paid in surplus required of a stock insurer for each line of insurance is set out in Section 206 of the Insurance Company Law (40 P.S. §386).
23. In accordance with Section 206 of the Insurance Company Law (40 P.S. §386), ASC is required to maintain a minimum paid up capital stock of \$750,000 and a minimum paid in surplus of \$375,000 to write the line of insurance for which it is presently licensed.
24. Upon completion of the Acquisition, ASC will have the statutory minimum paid up capital stock and paid in surplus to satisfy the requirements to write the line of insurance for which it is presently licensed.

#### Competitive Impact

25. The acquisition of control of a Pennsylvania domiciled insurer is subject to review and analysis under Section 1402(f)(1)(ii) of the Insurance Holding Companies Act to determine whether the effect of the acquisition of control of Domestic Insurers would be to substantially lessen competition in this Commonwealth or tend to create a monopoly therein, as per 40 P.S. §991.1402(f)(1)(ii) (the “competitive standard”).
26. The acquisition of control of ASC will not lessen competition or tend to create a monopoly in the Commonwealth because Mr. Lekse does not control any other insurance interests in the Commonwealth.

#### Financial Condition of Applicant

27. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the financial condition of the acquiring person(s).
28. The Department has reviewed the financial information submitted by Mr. Lekse.
29. The financial condition of Mr. Lekse would not pose any impediments to the change in control nor jeopardize the financial condition of ASC.

#### Plans for the Acquired Insurer

30. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the plans or proposals which the acquiring party has for the insurer.
31. In particular, the Department reviewed 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, to determine whether it is:

- a. Unfair or unreasonable;
  - b. Fails to confer a benefit upon policyholders; or
  - c. Not in the public interest.
32. As stated in the Application, Mr. Lekse has no future plans or proposals to liquidate ASC, to sell its assets, to merge or consolidate it with any person or persons or to change its corporate structure.
33. There is no basis in the record from which it may be concluded that the plans or proposals which the acquiring party has for the insurer are unfair or unreasonable or fails to confer a benefit upon policyholders or are not in the public interest.

#### Management

34. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the competence, experience and integrity of the persons who will control the operations of the acquired insurer.
35. A biographical affidavits from Mr. Lekse was reviewed by the Department.
36. The Department is satisfied that the persons who would control the operations of ASC have such competence, experience and integrity that the interests of policyholders and the public would not be jeopardized.

#### Hazardous or Prejudicial to Insurance Buying Public

37. When analyzing an application for an acquisition of control involving a domestic insurer under Section 1402 of the Insurance Holding Companies Act, the Department evaluates whether the merger, consolidation or other acquisition of control is likely to be hazardous or prejudicial to the insurance buying public.
38. There is insufficient evidence in the record from which it may be concluded that the merger will likely be hazardous or prejudicial to the insurance buying public.

#### Compliance with the Pennsylvania Laws

39. When analyzing an application for an acquisition of control involving a domestic insurer under Section 1402 of the Insurance Holding Companies Act, the Department

reviews the transaction to determine whether the merger, consolidation or other acquisition of control is not in compliance with the laws of this Commonwealth, including Article VIII-A.

40. The Department has evaluated the transaction as set forth by the Application as to whether it is in compliance with the laws of Pennsylvania.
41. If any of the above Findings of Fact are determined to be Conclusions of Law, they shall be incorporated in the Conclusions of Law as if fully set forth therein.

### **CONCLUSIONS OF LAW**

1. Under Section 1402 of the Insurance Holding Companies Act, the Department has jurisdiction to review and approve the change in control of ASC.
2. Under Section 1402 of the Insurance Holding Companies Act, the Department must approve an application for a change in control unless the Department has found that:
  - a) The insurer will not be able to satisfy the requirements for the issuance of a license to operate the line or lines of business for which they are presently licensed;
  - b) The change in control will substantially lessen competition in insurance in this Commonwealth or tend to create a monopoly therein;
  - c) The financial condition of the acquiring company is such as might jeopardize the financial stability of the insurer or prejudice the interests of its policyholders;
  - d) Any plans to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make material changes in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurers and not in the public interest;
  - e) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders and the general public to permit the acquisition of control; or,
  - f) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

g) The acquisition of control is not in compliance with the laws of this Commonwealth, including Article VIII-A, Insurance Company Mutual-to-Stock Conversion Act.

3. Under Section 1402 of the Insurance Holding Companies Act, the Commissioner has not found that any of the above conditions are present with respect to the change in control of ASC.

4. If any of the above Conclusions of Law are determined to be Findings of Fact, they shall be incorporated in the Findings of Fact as if fully set forth therein.

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**ORDER**


Upon consideration of the foregoing, the Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”) hereby makes the following Order:

The application of Anthony P. Lekse (“Mr. Lekse”) in support of the request for approval to acquire control of Allegheny Surety Company (“ASC”) as set forth in the application, is hereby approved, subject to this Order and the following conditions:

1. Mr. Lekse shall provide to the Department a list of closing documents within five (5) days after consummation of the subject transaction and shall maintain the listed documents and make them available to the Department for a period of not less than five (5) years from the date of consummation.

This Order is effective immediately and valid for one (1) year, provided no material changes are made to the transaction prior to consummation. This one year limitation does not apply to any conditions prescribed by the Department in the Order.



  
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Jessica K. Altman  
Insurance Commissioner  
Commonwealth of Pennsylvania