

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

In Re:	:	Pursuant to Sections 1401, 1402, and
	:	1403 of the Insurance Holding
Application of KnightBrook, LLC in	:	Companies Act, Article XIV of the
Support of the Request for Approval to	:	Insurance Company Law of 1921,
Merge Northwestern Insurance Company	:	Act of May 17, 1921, P.L. 682,
with and into Excess Reinsurance	:	<u>as amended</u> , 40 P.S. §§991.1401,
Company	:	991.1402, and 991.1403; Sections
	:	1921 through 1929 of the 1988
	:	Business Corporation Law, Act of
	:	December 21, 1988, P.L. 1444, No.
	:	177, <u>as amended</u> , 15 Pa. C.S.
	:	§§1921-1928; Sections 205 and 207
	:	of the GAA Amendments Act of
	:	1990, Act of December 19, 1990,
	:	P.L. 834, No. 198, <u>as amended</u> , 15
	:	P.S. §§21205 and 21207.
	:	
	:	Order No.: ID-RC-08-07

**DECISION AND ORDER**

AND NOW, on this 20th day of June, 2008, Joel Ario, Acting Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”), hereby makes the following Decision and Order:

Pursuant to the Insurance Holding Companies Act, the 1988 Business Corporation Law and the GAA Amendments Act of 1990, 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**

1. Northwestern Insurance Company (“Northwestern”) is a stock property insurance company organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Valley View, Pennsylvania.
2. Venbrook Insurance Holdings, LLC (“Venbrook”) is a limited liability company organized under the laws of the State of Delaware with its principal place of business in Woodland Hills, California.
3. Venbrook Group, LLC (“Venbrook Group”) is a limited liability company organized under the laws of the State of Delaware with its principal place of business in Woodland Hills, California. Venbrook is a subsidiary of Venbrook Group.
4. Jason D. Turner (“Turner”) is an individual with his principal place of business in Woodland Hills, California. Turner owns 36.7% of the voting securities of Venbrook Group.
5. William Lopatin (“Lopatin”) is an individual with his principal place of business in Beverly Hills, California. Lopatin owns 33.0% of the voting securities of Venbrook Group.
6. Marc J. Bishara (“Bishara”) is an individual with his principal place of business in Woodland Hills, California. Bishara owns 30.3% of the voting securities of Venbrook Group.
7. Turner, Lopatin and Bishara are the current ultimate controlling persons of Northwestern.
8. KnightBrook, LLC (“KnightBrook”) is an insurance holding company organized under the laws of the State of Delaware with its principal place of business located in Los Angeles, California.
9. Knight Holdings, Inc. (“Knight”) is a business corporation organized under the laws of the State of Nevada with its principal place of business located in Los Angeles, California. Knight and Venbrook each hold 50% of the ownership interests of KnightBrook.
10. Donald R. Hankey (“Hankey”) is an individual with his principal place of business located in Los Angeles, California. Hankey, both directly and through the Don R. Hankey Revocable Trust, controls 95.61% of the issued and

outstanding capital stock of Knight.

11. Excess Reinsurance Company (“Excess Re”) is an admitted stock property insurance company organized under the laws of the State of Delaware with its principal place of business located in Philadelphia, Pennsylvania.

### **Filing of the Application**

1. On April 11, 2008, the Insurance Department of the Commonwealth of Pennsylvania (“Department”) received an initial application (which together with all material received subsequently is collectively referenced as “Application”) from KnightBrook requesting approval to merge Northwestern with and into Excess Re, with Excess Re being the survivor.
2. The Insurance Holding Companies Act, Article XIV of the Insurance Company Law of 1921, Act of May 17, 1921, P.L. 682, as amended, 40 P.S. §§991.1401 et seq. (“Insurance Holding Companies Act”), provides that all mergers or other acquisitions of control of domestic insurers must be filed with the Department for approval or disapproval.
3. The 1988 Business Corporation Law, Act of December 21, 1988, P.L. 1444, as amended, Sections 1921 through 1929, 15 Pa. C.S. §§1921 through 1929 (“1988 BCL”), and the GAA Amendments Act of 1990, P.L. 834, No. 198, as amended, 15 P.S. §§21205, 21207 (“GAA Amendments Act”), provide that all plans of merger of domestic insurers must be filed with the Department for approval or disapproval.
4. The Application was filed with the Department pursuant to Section 1402 of the Insurance Holding Companies Act and Section 205 of the GAA Amendments Act.

### **Notice and Filing of Comments**

5. On April 26, 2008, the Department published notice in the *Pennsylvania Bulletin* that the Application had been submitted and such notice invited interested persons to submit comments to the Department regarding the Application for a thirty day period, ending May 26, 2008.
6. During the thirty day public comment period, the Department received no comments regarding the Application.

### **The Transaction**

7. On February 13, 2008, KnightBrook, Northwestern, Excess Re, Venbrook and Knight entered into an Agreement and Plan of Merger (“Merger Agreement”) whereby Northwestern would merge with and into Excess Re with Excess Re the

survivor of the merger.

8. As described in the Application, Venbrook has agreed to contribute direct ownership of Northwestern to KnightBrook, subject to the Department's approval.
9. As described in the Application, the Merger Agreement contemplates that Northwestern would be a wholly-owned subsidiary of KnightBrook at the time the instant transaction is consummated.
10. As described in the Application and provided in the Merger Agreement, the KnightBrook owned Northwestern would merge with and into Excess Re, with Excess Re the surviving insurer.
11. As described in the Application and provided in the Merger Agreement, the shareholders of Excess Re would sell their Excess Re stock to KnightBrook in exchange for a cash consideration.
12. As described in the Application and provided in the Merger Agreement, upon consummation of the merger KnightBrook would hold 100% of the issued and outstanding capital stock of Excess Re.

### **Standards for Review**

#### **GAA Amendments Act**

13. Section 205 of the GAA Amendments Act establishes standards for approval of an application for a merger of a domestic insurer.
14. The application for a merger must be approved if the transaction is in accordance with law and not injurious to the interests of the policyholders and creditors.

#### **Insurance Holding Companies Act**

15. Section 1402(f)(1) of the Insurance Holding Companies Act establishes the standards for approval of an application for a merger or other acquisition of control of a domestic insurer.
16. In accordance with Section 1402(f)(1) of the Insurance Holding Companies Act, the application for a merger or other acquisition of control must be approved unless the Commissioner finds any one of certain enumerated conditions to be present.

### Licensing Requirements

17. When analyzing an application for a merger involving a domestic insurer under Section 1402 of the Insurance Holding Companies Act, the Commissioner reviews the requirements for continued licensure of the surviving insurer.
18. The class or classes 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).
19. Section 206 of the Insurance Company Law (40 P.S. §386) sets out the minimum capital and contributed surplus required of an insurance company for each class of insurance for which it is incorporated.
20. In accordance with Section 206 of the Insurance Company Law (40 P.S. §386), Excess Re is required to maintain a minimum paid up capital stock of \$2,150,000 to write the classes of insurance for which it is presently licensed.
21. In accordance with Section 206 of the Insurance Company Law (40 P.S. §386), Excess Re is required to maintain a minimum paid in surplus of \$1,075,000 to write the classes of insurance for which it is presently licensed.
22. Upon completion of the transaction, Excess Re would have paid up capital in an amount that would satisfy the statutory minimum required of a stock property insurance company licensed to write the classes of authority currently held by Northwestern.
23. Upon completion of the transaction, Excess Re would have paid in surplus in an amount that would satisfy the statutory minimum required of a stock property insurance company licensed to write the classes of authority currently held by Northwestern.

### Competitive Impact

24. The merger of Northwestern with and into Excess Re is subject to review and analysis under Section 1403(d)(2) of the Insurance Holding Companies Act to determine whether the effect of the merger would substantially lessen competition in this Commonwealth or tend to create a monopoly therein.
25. The merger of Northwestern with and into Excess Re would not lessen competition or tend to create a monopoly in the Commonwealth because the market shares of Northwestern and the market share of Excess Re, as stated in the Application, do not exceed the market share levels

established in Section 1403 of the Insurance Holding Companies Act.

Financial Condition of Applicant

26. When analyzing an application for a merger involving a domestic insurer under Section 1402 of the Insurance Holding Companies Act, the Department reviews the financial condition of the surviving insurer.

26. As of December 31, 2007, Excess Re reported:

Assets of:	\$ 35,685,056
Liabilities of:	\$ 8,717,394
Surplus as Regard Policyholders of:	\$ 26,967,662

27. The financial condition of Excess Re would not pose any impediments to the merger nor prejudice the interest of the policyholders of Northwestern.

28. As stated in the Application, Excess Re's surplus would be increased as a result of the merger.

Plans for the Acquired Insurer

29. When analyzing an application for a merger involving a domestic insurer under Section 1402 of the Insurance Holding Companies Act, the Department reviews the plans or proposals of the surviving insurer after the merger with respect to the acquired insurer.

30. As stated in the Application, no in-force policies would be non-renewed as a result of the merger.

31. After reviewing the application, the Department did not find the Merger Agreement to be:

- a. unfair or unreasonable to the policyholders of Northwestern, or
- b. contrary to the interests of the public.

32. After reviewing the application, the Department did not find any material changes in the plans for the business, corporate structure or management of Excess Re after the merger that would be:

- a. unfair and unreasonable to the policyholders of Excess Re, or
- b. contrary to the interests of the public.

### Management

33. When analyzing an application for a merger involving a domestic insurer under Section 1402 of the Insurance Holding Companies Act, the Department reviews the competence, experience and integrity of the persons who would control the operations of the surviving insurer.
34. Biographical affidavits for all directors and executive officers of post-merger Excess Re were reviewed by the Department.
35. The Department is satisfied that the persons who control the operations of Excess Re have such competence, experience and integrity that the interests of policyholders and the public would not be jeopardized.
36. Based on the above Findings of Fact, the Department is satisfied that the standards set forth in Section 205 of the GAA Amendments Act are satisfied.
37. 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 merger of Northwestern and Excess Re.
2. Under Section 1402 of the Insurance Holding Companies Act, the Department must approve an application for a merger unless the Department has found that:
  - a) The insurer would 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 effect of the merger would 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;
  - f) The acquisition is likely to be hazardous or prejudicial to the insurance buying public; or
  - 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 merger of Northwestern with and into Excess Re.
4. The Commissioner concludes that the preparation of the Merger Agreement, pertaining to the terms and conditions, satisfies the requirements of Section 1922 of the 1988 BCL.
5. The Commissioner concludes that the Merger Agreement would satisfy the requirements of Section 1924.

6. The Commissioner concludes that the Articles of Merger would satisfy the requirements of Section 1926 of the 1988 BCL.
7. The Commissioner concludes that the Merger Agreement would be effective on or after proper filing of Articles of Merger with the Department of State pursuant to Sections 1927 and 1928 of the 1988 BCL.
8. The Commissioner concludes that, if the proposed merger is consummated, all the rights, privileges, immunities, powers and purposes of Northwestern would be conveyed to the surviving entity, as a matter of law, pursuant to Section 1929 of the 1988 BCL.
9. Pursuant to Section 205(b) of the GAA Amendments Act, the Commissioner concludes that the terms and conditions of the proposed merger are fair and that the proposed merger is in accordance with law and not injurious to the interests of the policyholders and creditors.
10. The Commissioner concludes that the Application satisfies the requirements of the Insurance Holding Companies Act, the 1988 BCL and the GAA Amendments Act.
11. 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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	:	P.S. §§21205 and 21207.
	:	:
	:	Order No.: ID-RC-08-07

**ORDER**

Upon consideration of the foregoing, the Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”) hereby makes the following Order approving the application of KnightBrook, LLC to merge Northwestern Insurance Company (“Northwestern”) with and into Excess Reinsurance Company (“Excess Re”), subject to the following conditions:

1. In order to effectuate the merger, the following shall occur:
  - a) The Delaware Insurance Department shall have approved the transaction; and
  - b) Articles of Merger shall be filed with the Pennsylvania Department of State.

2. A copy of the Delaware approval and a copy of the filed Articles of Merger shall be provided to the Commissioner not later than ten (10) days after receipt of the documents.
3. Excess Re shall mail to each policyholder of Northwestern an approved endorsement within sixty (60) days of the effective date of the proposed merger. This endorsement will notify all policyholders of Northwestern of the merger and advise them that Excess Re is responsible for all of the obligations and liabilities of such policyholders' policies.
4. This transaction may be recorded as effective for accounting purpose on the first day of the calendar quarter in which the transaction is closed.

This Order is effective immediately and valid for one year, provided no material changes are made to the transaction as approved under the Application.

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JOEL ARIO  
Acting Insurance Commissioner  
Commonwealth of Pennsylvania