

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

In Re:	:	Pursuant to Sections 1401, 1402, and
	:	1403 of the Insurance Holding
Application of Joseph Stilwell in Support	:	Companies Act, Article XIV of the
of the Request for Approval to Acquire	:	Insurance Company Law of 1921,
Control of Lincoln General Insurance	:	Act of May 17, 1921, P.L. 682,
Company	:	<u>as amended</u> , 40 P.S. §§991.1401,
	:	991.1402, and 991.1403
	:	
	:	Order No. ID-RC-09-25

DECISION AND ORDER

AND NOW, on this 19th day of August, 2009, Joel Ario, Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”), hereby makes the following Decision and Order:

Pursuant to the Insurance Company Law and the Insurance Holding Company 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

1. Lincoln General Insurance Company (“Lincoln General”) is a stock property insurance company organized under the laws of the Commonwealth of Pennsylvania with its principal place of business located in York, Pennsylvania.
2. Kingsway Financial Services, Inc. (“Kingsway”) is an insurance holding company organized under the laws of Canada with its principal place of business located in Mississauga, Ontario, Canada. Kingsway indirectly holds 100% of the issued and outstanding voting stock of Lincoln General.

3. Kingsway is publicly traded on the New York Stock Exchange and the Toronto Stock Exchange with no entity holding 10% or more of its issued and outstanding capital stock.
4. Joseph Stilwell (“Mr. Stilwell”) is an individual with his principal place of business located in New York, New York.

Acquisition Filing

5. The Insurance Holding Companies Act, Article XIV of the Insurance Company Law of 1921, Act of May 17, 1992, P.L. 682, as amended, 40 P.S. §§991.1401 et seq. (“Insurance Holding Companies Act”), provides that any transaction involving control of a domestic insurer must be filed with the Commissioner for approval or disapproval.
6. On June 10, 2009, 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 Mr. Stilwell for approval to acquire control of Lincoln General.
7. The Application was filed pursuant to Section 1402 of the Insurance Holding Companies Act.

Department Procedures

8. On July 18, 2009, the Department published notice in the *Pennsylvania Bulletin* that the Application was submitted by Mr. Stilwell and such notice invited interested persons to submit comments to the Department regarding the Application for a thirty (30) day period, ending August 17, 2009.
9. The Department received no comments regarding the Application during the thirty (30) day comment period.

Description of the Proposed Acquisition

10. As described in the Application, on January 7, 2009, Mr. Stilwell and Kingsway signed a Settlement Agreement (“Agreement”).
11. As described in the Application and pursuant to the Agreement, Mr. Stilwell appointed two persons to serve on the board of directors of Kingsway.
12. As described in the Application and pursuant to the Agreement, Mr. Stilwell for a period of three years may not hold, directly or indirectly, 20% or more of the issued and outstanding capital stock Kingsway.

13. As described in the Application, Mr. Stilwell is seeking approval to acquire up to 19.99% of the issued and outstanding capital stock of Kingsway.
14. Mr. Stilwell has not decided how many, if any, additional Kingsway stock he will acquire.

Standards for Review

15. 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.
16. The application for a change in 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 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.
18. The 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. The minimum paid up capital stock and paid in surplus required of a stock insurer for each class of insurance is set out in Section 206 of the Insurance Company Law (40 P.S. §386).
20. In accordance with Section 206 of the Insurance Company Law (40 P.S. §386), Lincoln General is required to maintain a minimum paid up capital stock of \$2,350,000 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), Lincoln General is required to maintain a minimum paid in surplus of \$1,175,000 to write the classes of insurance for which it is presently licensed.
22. Upon completion of the transaction, Lincoln General will have paid up capital in an amount that will satisfy the statutory minimum required of a property insurance company licensed to write the classes of authority currently held by Lincoln General.
23. Upon completion of the transaction, Lincoln General will have paid in surplus in an amount that will satisfy the statutory minimum required of a property insurance company licensed to write the classes of authority currently held by

Lincoln General.

Competitive Impact

24. The acquisition of control of Lincoln General is subject to review and analysis under Section 1403 of the Insurance Holding Companies Act to determine whether the effect of the acquisition of control would be to substantially lessen competition or tend to create a monopoly in the Commonwealth.
25. The acquisition of control of Lincoln General will not lessen competition or tend to create a monopoly in the Commonwealth because the market share of Mr. Stilwell, as stated in the Application, does not exceed the market share levels established in Section 1403.

Financial Condition of Mr. Stilwell

26. 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 persons.
27. The Department reviewed the financial statements of Mr. Stilwell.
28. The financial condition of Mr. Stilwell would not pose any impediments to the change in control nor jeopardize the financial condition of Lincoln General.

Plans for the Acquired Insurer

29. 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.
30. As provided in the Application, Mr. Stilwell has disclosed that it intends to make no significant changes to the business plan of Lincoln General.

Management

31. 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 insurers.
32. A biographical affidavit from Mr. Stilwell was provided as part of the Application and the Department reviewed the affidavit.
33. The Department is satisfied that Mr. Stilwell has such competence, experience and integrity that the interests of policyholders and the public would not be

jeopardized.

34. 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 Commissioner has jurisdiction to review and approve the change in control of Lincoln General.
2. Under Section 1402 of the Insurance Holding Companies Act, the Commissioner 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 it is 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;
 - 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 change in control of Lincoln General.
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 hereby makes the following Order:

The acquisition of a controlling interest of Lincoln General Insurance Company by Mr. Stilwell is hereby approved, subject to this Order.

This Order is effective immediately and valid for one year, provided no material changes are made to the transaction prior to consummation.

JOEL ARIO
Insurance Commissioner
Commonwealth of Pennsylvania