

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

In Re: : Pursuant to Section 319, Article III of the
: Insurance Company Law of 1921, Act of
Application of The Mountbatten Surety : May 17, 1921, P.L. 682, as amended, 40
Company, Inc. for Approval to Reinsure its : P.S. §442
Entire Schedule of Policies :
: Order No. ID-RC-03-07

DECISION AND ORDER

AND NOW, on this 27th day of February, 2003, M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”), hereby makes the following Decision and Order:

Pursuant to Section 319 of the Insurance Company Law of May 17, 1921, as amended, (40 P.S. §442) (“Insurance Company Law”) 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 Involved Companies

1. The Mountbatten Surety Company, Inc. (“Mountbatten”) is a stock casualty insurance company organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Bala Cynwyd, Pennsylvania.
2. Fidelity and Deposit Company of Maryland (“F&D”) is a stock casualty insurance company organized under the laws of the state of Maryland with its principal place of business in Schaumburg, Illinois. F&D indirectly controls 100% of the issued and outstanding capital stock of Mountbatten.
3. Mountbatten and F&D each hold a certificate authorizing the transaction of the business of insurance in this Commonwealth (“Certificate of Authority”).

Reinsurance Filing

4. On February 12, 2003, the Commissioner received an initial application (which, together with all material received subsequently, is collectively referenced as “Application”) from Mountbatten for approval to reinsure its entire schedule of policies (“Bulk Transfer”) with F&D.
5. The Application included a draft Assumption Reinsurance Agreement and Administration Agreement (“the Agreement”) that provides, *inter alia*, for F&D to assume the rights, duties, and obligations of all policies issued by Mountbatten in exchange for select assets of Mountbatten.
6. Such reinsurance and assumption of the entire schedule of policies of a domestic insurer requires the prior approval of the Commissioner in accordance with the provisions of Section 319(a) of the Insurance Company Law.

Standards for Review

7. The standards set forth in Section 319(b) of the Insurance Company Law are used by the Commissioner in reviewing an application for approval submitted in accordance with Section 319(a) of the Insurance Company Law.

Business Written

8. When evaluating a Bulk Transfer, filed in accordance with Section 319(a) of the Insurance Company Law, the Commissioner reviews whether the assuming company is doing the same or a similar kind of business as the ceding company.
9. F&D is writing the same or a similar kind of business as Mountbatten as reflected in documents on file with the Pennsylvania Insurance Department (“Department”).

License Status

10. When evaluating a Bulk Transfer, filed in accordance with Section 319(a) of the Insurance Company Law, the Commissioner reviews the license status of the assuming insurer to determine whether it is licensed to transact the business of insurance in this Commonwealth or in any of the United States.
11. The 2001 Annual Statement of Mountbatten, as filed with the Department and prepared in accordance with statutory accounting principles, reports licensure and direct premiums written in Pennsylvania.
12. The 2001 Annual Statement of F&D, as filed with the Department and prepared in accordance with statutory accounting principles, reports licensure and direct premiums

written in Pennsylvania.

Financial Condition

13. When evaluating a Bulk Transfer, filed in accordance with Section 319(a) of the Insurance Company Law, the Commissioner reviews whether the assuming insurer is and remains of the same standard of solvency both before and after consummation of the proposed transaction.
14. The 2001 Annual Statement of F&D reports:
 - a) Capital Stock: \$5,000,000,
 - b) Gross paid in and contributed surplus: \$34,842,222, and
 - c) Unassigned funds: \$118,104,026
15. As of and for the year ended December 31, 2001, F&D's total assets were \$161,278,643, total liabilities were \$3,332,395, and net income was \$6,963,131.
16. As of and for the nine (9) months ended September 30, 2002, F&D's total assets were \$159,261,776, total liabilities were \$2,548,796, surplus as regards policyholders was \$156,712,981.
17. As Mountbatten is a subsidiary of F&D, the financial information provided for F&D includes the impact of the current Mountbatten balances.
18. Based on the representations in its financial statements, F&D is and will remain of the same standard of solvency both before and after the Bulk Transfer.

Licensing Requirements

19. When evaluating a Bulk Transfer, filed in accordance with Section 319(a) of the Insurance Company Law, the Commissioner reviews the requirements for continued licensure of the assuming insurer.
20. Section 206 of the Insurance Company Law sets out the minimum capital required of a stock insurance company for each line of insurance for which it is incorporated.
21. In accordance with Section 206 of the Insurance Company Law, F&D is required to maintain a minimum capital of \$2,350,000 to transact the business of insurance in this Commonwealth for those lines of insurance for which it is licensed.

22. F&D currently has sufficient capital to satisfy the requirements to write the lines of insurance for which it is presently licensed.
23. Section 206 of the Insurance Company Law sets out the minimum paid in or contributed surplus required of a stock insurance company for each line of insurance for which it is incorporated.
24. In accordance with Section 206 of the Insurance Company Law, F&D is required to maintain a minimum paid in or contributed surplus of \$1,175,000 to transact the business of insurance in this Commonwealth for those lines of insurance for which it is licensed.
25. F&D currently has sufficient paid in and contributed surplus to satisfy the requirements to write the lines of insurance for which it is presently licensed.
26. Upon completion of the Bulk Transfer, F&D will have capital and paid in or contributed surplus in an amount required to maintain a license to transact the business of insurance in this Commonwealth for those lines of insurance for which it is presently licensed.
27. 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. Section 319(a) of the Insurance Company Law provides that no stock or mutual insurance company shall reinsure its entire schedule of policies except by approval of the Commissioner.
2. Section 319(b) of the Insurance Company Law provides the following standards for use by the Commissioner in reviewing an application for approval submitted in accordance with Section 319(a) of the Insurance Company Law:
 - a) the assuming insurer is doing the same or a similar kind of business;
 - b) the assuming insurer is licensed to transact business in this Commonwealth or licensed to transact business in any of the United States;
 - c) the assuming insurer is and remains of the same standard of solvency; and
 - d) the assuming insurer continues to meet all other requirements fixed by the laws of this Commonwealth for companies, associations, or exchanges transacting the same classes of business within this Commonwealth.
3. The standards of Section 319(b) of the Insurance Company Law were applied by the Commissioner in reviewing the Bulk Transfer of Mountbatten's entire schedule of

policies.

4. Based on all the information and analysis received and the Department's independent review, the Commissioner finds that the sections of the Agreements that are relevant to the Application are in accordance with law.
5. A company organized under the laws of the Commonwealth of Pennsylvania may transact the business of insurance if it has been issued a Certificate of Authority from the Commissioner.
6. If any of the above Conclusions of Law are determined to be Findings of Fact, they shall be deemed incorporated in the Findings 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:

An approving determination for the Assumption Reinsurance and Administration Agreement between The Mountbatten Surety Company and Fidelity and Deposit Company of Maryland, as set forth in the Application, is hereby granted.

This Order is effective immediately and is valid for one year from the date of signature, provided there are no significant changes to the information provided in the Application.

M. Diane Koken
Insurance Commissioner
Commonwealth of Pennsylvania