

BEFORE THE DEPUTY INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

In Re:	:	Pursuant to Sections 205 and 207
	:	of the GAA Amendments Act of
Application of The Green Tree Perpetual	:	1990, Act of December 19, 1990,
Assurance Company in Support of the	:	P.L. 834, No. 198, <u>as amended</u> , 15
Request for Approval to Recapitalize	:	P.S. §§21205 and 21207.
	:	
	:	Order No.: ID-RC-08-21

DECISION AND ORDER

AND NOW, on this 12th day of December, 2008, Stephen J. Johnson, Deputy Insurance Commissioner of the Commonwealth of Pennsylvania (“Deputy Commissioner”), hereby makes the following Decision and Order:

Pursuant to 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 Deputy Commissioner hereby makes the following findings of fact:

FINDINGS OF FACT

Identity of Parties

1. The Green Tree Perpetual Assurance Company (“Green Tree”) is a domestic stock property insurance company organized pursuant to the laws of the Commonwealth of Pennsylvania, and has its principal place of business at Philadelphia, Pennsylvania.

Filing of the Application

2. On December 2, 2008, the Insurance Department of the Commonwealth of Pennsylvania (hereinafter referenced as “Department”) received an initial application (which together with all material received subsequently is collectively referenced as “Application”) from Green Tree requesting approval to recapitalize.
3. The Application was filed pursuant to and in accordance with Title 15, Pa. C.S., Section 1 et seq., as amended, including the GAA Amendments Act of 1992 which is collectively known as the Business Corporation Law (hereinafter referenced as the “BCL”).

#### Department Procedures

4. On November 29, 2008, the Department published notice in the *Pennsylvania Bulletin* that the Application was being submitted by Green Tree and such notice invited interested persons to submit comments to the Department regarding the Application for a seven day period.
5. The Department received no comments regarding the Application during the seven day comment period.

#### Description of the Proposed Transaction

6. On December 1, 2008, the Board of Directors and the sole shareholder of Green Tree approved an Agreement for the Cancellation of Series A Mandatory Redeemable Cumulative Preferred Stock (“Agreement”) that would cancel Green Tree’s three million shares of Series A Cumulative Preferred Stock (“Preferred Stock”) issued and outstanding.
7. As described in the Application, Green Tree’s Articles of Incorporation authorize five million shares of Preferred Stock, with a par value of one dollar.
8. As described in the Application, Green Tree has issued three million shares of Preferred Stock.
9. As described in the Application, Green Tree’s Articles of Incorporation authorize ten million shares of common stock, with a par value of one dollar.
10. As described in the Application, Green Tree has issued ten shares of common stock.
11. As described in the Application and pursuant to the Agreement, the Preferred Stock would be cancelled.
12. As described in the Application and pursuant to the Agreement, the proceeds from the cancellation of the Preferred Stock would be used to issue an additional 149,990 shares of common stock to Green Tree’s sole shareholder. The remainder of the proceeds would be immediately recorded as paid-in surplus on the books of account of the Green Tree.
13. As described in the Application, upon implementation of the recapitalization the stated capital of Green Tree would be reduced from \$3,000,010 to \$150,000.
14. As described in the Application, upon implementation of the recapitalization the contributed surplus of Green Tree would be increased from \$500,790 to \$3,350,800.

15. As described in the Application, no cash would be removed from Green Tree as a result of the recapitalization.

Standards for Review

16. In accordance with Section 21204(c) of the BCL, the capital stock of an insurance corporation may not be reduced below the minimum amount of capital stock required by law for the formation of the corporation.
17. In accordance with Section 21205(b) of the BCL, a reduction in capital stock shall be approved if it is in accordance with law and consistent with the interests of the policyholders and creditors.
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), Green Tree is required to maintain a minimum paid up capital stock of \$100,000 to write the class of insurance for which it is presently licensed.
21. In accordance with Section 206 of the Insurance Company Law (40 P.S. §386), Green Tree is required to maintain a minimum paid in surplus of \$50,000 to write the class of insurance for which it is presently licensed.
22. Upon completion of the transaction, Green Tree 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 class of authority currently held by Green Tree.
23. Upon completion of the transaction, Green Tree 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 class of authority currently held by Green Tree.
24. 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. In accordance with Section 21205(g) of the BCL, the Application is consistent with the definition of a recapitalization.
2. In accordance with Section 21205(a) of the BCL, any recapitalization of a domestic insurer shall be effective only if approved by the Department.
3. The Application was properly filed pursuant to and in accordance with the BCL.
4. The Department has jurisdiction over the parties and subject matter of this proceeding.
5. In accordance with Section 21204(c) of the BCL, the Deputy Commissioner, based on the Application, has concluded that the recapitalization would not reduce the capital stock of Green Tree below the minimum amount of capital stock required by law for the formation of the corporation.
6. In accordance with Section 21205(b) of the BCL, the Deputy Commissioner, based on the Application, has concluded that the recapitalization would be in accordance with law and would not be injurious to the interests of the policyholders and creditors of Green Tree.
7. 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 Deputy Commissioner hereby makes the following Order:

An approving determination for the recapitalization of The Green Tree Perpetual Assurance Company (“Green Tree”), as set forth in the Application, is hereby granted, subject to this order and:

1. Green Tree shall file an “Increase or Decrease of Stated Capital Form” with the Pennsylvania Insurance Department within 30 days after consummation of the recapitalization.

This Order is effective immediately, and valid for one year provided there are no material changes to the Application.

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STEPHEN J. JOHNSON  
Deputy Insurance Commissioner  
Office of Corporate and Financial Regulation