

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF IOWA

In the matter of the application for)
acquisition of control of ACCORDIA LIFE)
AND ANNUITY COMPANY, CAPE)
VERITY I, INC., and CAPE VERITY III,)
INC. by MAGNOLIA PARENT LLC, KKR)
MAGNOLIA HOLDINGS LLC, KKR)
GROUP ASSETS HOLDINGS L.P., KKR)
GROUP ASSETS GP LLC, KKR GROUP)
PARTNERSHIP L.P., KKR GROUP)
HOLDINGS CORP., KKR & CO. INC., KKR)
MANAGEMENT LLP, HENRY R. KRAVIS,)
and GEORGE R. ROBERTS)

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**
(Iowa Code chapter 521A)

I. INTRODUCTION

Magnolia Parent LLC, a Cayman Islands limited liability company ("Magnolia Parent"), KKR Magnolia Holdings LLC, a Cayman Islands limited liability company ("Magnolia Holdings"), KKR Group Assets Holdings L.P., a Delaware limited partnership ("KKR Group Assets LP"), KKR Group Assets GP LLC, a Delaware limited liability company ("KKR Group Assets LLC"), KKR Group Partnership L.P., a Cayman Islands limited partnership ("KKR Group Partnership"), KKR Group Holdings Corp., a Delaware corporation ("KKR Group Corp."), KKR & Co. Inc., a Delaware corporation ("KKR & Co"), KKR Management LLP ("KKR Management"), Henry R. Kravis ("Kravis"), and George R. Roberts ("Roberts," and collectively with Magnolia Parent, Magnolia Holdings, KKR Group Assets LP, KKR Group Assets LLC, KKR Group Partnership, KKR Group Corp., KKR & Co, and Kravis, the "Applicants") seek permission to acquire control of Accordia Life and Annuity Company ("Accordia"), Cape Verity I, Inc. ("Cape Verity I"), and Cape Verity III, Inc. ("Cape Verity III"), each Iowa domestic insurers (collectively, the "Domestic Insurers") and indirect, wholly owned subsidiaries of Global Atlantic Financial Life Limited, a Bermuda exempted company ("GAFGL"), which is in turn directly owned by Global Atlantic Financial Group Limited, a Bermuda exempted company ("GAFGL") and LAMC LP, a Cayman Island exempted limited partnership ("LAMC").¹ The Agreement and Plan of Merger, dated as of July 7, 2020 (the "Merger Agreement"), among Magnolia Parent, Magnolia Merger Sub Limited, a Bermuda exempted company and wholly owned subsidiary of Magnolia Parent ("Merger Sub"), GAFGL, GAFL, LAMC (solely for Section 2.10(a) of the Merger Agreement), and Goldman Sachs & Co. LLC, solely in its capacity as the equity representative, provides that, subject to the terms and conditions contained in the Merger Agreement, (i) Merger Sub will merge with and into GAFGL, with GAFGL surviving as a direct, wholly owned subsidiary of Magnolia Parent, and (ii) GAFL will merge with and into GAFGL, with GAFGL surviving as a direct, wholly owned

¹ GAFGL owns all of the issued and outstanding voting securities of GAFL, while LAMC owns all of the issued and outstanding non-voting securities of GAFL. Prior to the closing of the Merger Agreement, LAMC will distribute all of its shares of GAFL to its partners, to allow them to decide how they will be compensated for their GAFL shares in the closing.

subsidiary of Magnolia Parent. Upon the completion of the transactions contemplated in the Merger Agreement, the Domestic Insurers will become indirect wholly owned subsidiaries of Magnolia Parent, controlled by the Applicants.

In accordance with the provisions of Iowa Code² § 521A.3, Applicants have filed a Form A, dated July 28, 2020 (the “Form A Statement”), applying for approval of their acquisition of control of the Domestic Insurers with the Commissioner of Insurance of the State of Iowa (the “Commissioner”).

Pursuant to the provisions of Iowa Code § 521A.3(4), and at the request of Applicants, a public hearing was held on Monday, December 14, 2020, virtually through the Iowa Insurance Division’s (“Division”) WebEx platform for the purpose of determining whether the proposed acquisition of control of the Domestic Insurers by the Applicants complies with the statutory requirements set forth in Iowa Code § 521A.3(4)(a).

II. JURISDICTION

Notice of the public hearing conducted on December 14, 2020, was provided to the parties in accordance with Iowa Code § 17A.12. (*Trans. at 5, 15*) The Commissioner has jurisdiction over this matter under Iowa Code §§ 17A.11, 17A.12, and 521A.3.

III. EVIDENCE PRESENTED

At the public hearing, the Applicants offered nine exhibits as follows:

- Exhibit 1: A full electronic public copy of the Form A Statement, as supplemented and with public sub-exhibits.
- Exhibit 2: An email to the Domestic Insurers from Maureen Kellett Curtiss, on behalf of the Applicants, dated July 29, 2020, providing a copy of the Form A Statement.
- Exhibit 3: The notice of public hearing issued by the Division on November 23, 2020 (the “Notice of Public Hearing”).
- Exhibit 4: An email from Allison J. Tam, on behalf of the Applicants, providing a copy of the Notice of Public Hearing to the Domestic Insurers.
- Exhibit 5: The affidavit of Samuel Ramos dated December 1, 2020, regarding the receipt and distribution of the Form A Statement among the Domestic Insurers.
- Exhibit 6: An abbreviated post-closing organizational chart.

² All references to the Iowa Code herein are to the Code of 2020 as amended.

Exhibit 7: The affidavit of Craig A. Lee dated December 10, 2020, regarding his hearing testimony.

Exhibit 8: The Affidavit of Philip W. Sherrill dated December 8, 2020, regarding his hearing testimony.

Exhibit 9: The application pro hac vice of Richard Mancino pertaining to his representation of the Applicants at the hearing held on December 14, 2020.

Exhibits 1 through 9 were received into the record. (*Trans. at 16*)

At the conclusion of the hearing, the Commissioner held the record open through the close of business on December 14, 2020 to allow the Applicants and the public to submit further information or comment into the record. (*Trans. at 40–41*) After the hearing and upon the request of the Division, the Applicants offered the following additional exhibit, which the Commissioner received into the record:

Exhibit 1A: A full electronic confidential regulator copy of the Form A Statement, as supplemented and with all sub-exhibits, certain portions of which are not included in the public copy and are to be held confidential pursuant to the provisions of Iowa Code §§ 22.7(6) and Iowa Administrative Code rule 191–1.3(11)(c).

The final exhibit was submitted to the Commissioner prior to the close of business on December 14, 2020, at which time the record was closed.

In addition, the Applicants called two witnesses at the public hearing, Mr. Craig Lee, who was authorized to speak on behalf of the Applicants, and Mr. Philip Sherrill, who spoke on behalf of GAGFL and the Domestic Insurers. (*Trans. at 17, 19, 35*)

Mr. Lee is the Managing director and Head of Insurance and Strategic Finance at Kohlberg Kravis Roberts & Co., L.P. (*Trans. at 19*) Mr. Lee testified that KKR & Co is a leading global investment firm with offices in 15 countries around the world. (*Trans. at 21*) According to Mr. Lee’s affidavit, KKR & Co has industry-leading investment experience, in-depth industry knowledge, sophisticated processes for growing and improving businesses, and a strong culture committed to teamwork. Over 40 years, KKR & Co has been investing in a broad range of asset classes, including private equity, credit, and real assets, on behalf of third-party investors. (*Exhibit 7*) As of December 31, 2019, KKR & Co and its affiliates employed approximately 1,400 people worldwide—including 480 investment professionals. (*Trans. at 21–22*) As of November 30, 2020, KKR & Co had a total market capitalization of approximately \$32.2 billion. As of September 30, 2020, KKR & Co had \$234 billion of assets under management, including \$32.3 billion of assets managed on behalf of insurance companies. (*Exhibit 7*)

According to Mr. Lee’s affidavit, the proposed acquisition of the Domestic Insurers is a strategic acquisition for KKR & Co and not an investment of its private equity funds. KKR & Co will hold its entire stake in GAFGL, including the Domestic Insurers, on its balance sheet and not through one of its private equity funds. Mr. Lee asserted that GAFGL will become a key subsidiary of KKR & Co and will expand KKR & Co’s business lines. The Applicants believe that the

acquisition will be beneficial both for them and for the Domestic Insurers and GAFGL. Mr. Lee's affidavit notes that KKR & Co's position and experience should improve GAFGL's net investment yield and overall risk framework. Furthermore, the Applicants assert that KKR & Co's asset management capabilities should enhance the risk-adjusted returns that GAFGL and the Domestic Insurers are able to offer policyholders and further augment their already strong position on behalf of all stakeholders. (*Exhibit 7*)

Mr. Lee testified that he assisted with the preparation of the Form A Statement and was personally familiar with the application and the proposed transaction. He affirmed that the Form A Statement submitted in this matter is complete, accurate, and up-to-date. He also confirmed that the Form A Statement does not contain any misleading statements or omit any material facts, and that there had been no material changes to the facts, statements, and representations in the Form A Statement.³ Mr. Lee further indicated that there were no contracts that are part of the proposed transaction of which the Division and Commissioner have not been made aware. (*Trans. at 21, 32-34*)

Mr. Lee testified that the Applicants seek permission to acquire control of the Domestic Insurers through the Applicants' acquisition of GAFGL, pursuant to the terms of the Merger Agreement. (*Trans. at 19-20, 22*). Specifically, a wholly-owned subsidiary of Magnolia Parent, Merger Sub, will merge with and into GAFGL, which is the indirect majority owner of the Domestic Insurers. Then GAFL, a subsidiary of GAFGL and the indirect 100% parent of the Domestic Insurers, will merge with and into GAFGL, resulting in the Domestic Insurers becoming indirect, wholly owned subsidiaries of Magnolia Parent upon the closing the transactions contemplated Merger Agreement. Upon the conclusion of the proposed transaction, the Applicants will be the controlling persons of the Domestic Insurers. (*Exhibit 1*) Other than the merger of GAFL with and into GAFGL, the current structure of GAFGL's subsidiaries, including but not limited to the Domestic Insurers, will largely remain in place and continue to operate as it does today. (*Exhibit 1; Exhibit 7; Trans. at 27-29*) The consideration for the acquisition of GAFGL and, indirectly, the Domestic Insurers will be approximately \$4.5 billion and will be paid to GAFGL's and GAFL's shareholders in a combination of cash and Magnolia Parent equity. (*Exhibit 1; Exhibit 7; Trans. at 23*)

Mr. Lee also testified that the Applicants will maintain a strong financial position both before and after the acquisition of GAFGL and the Domestic Insurers. (*Trans. at 27*) Upon the consummation of the proposed transaction, GAFGL and the Domestic Insurers will be wholly owned subsidiaries of Magnolia Parent, which is an indirect subsidiary of KKR & Co, whose common stock is publicly traded on the New York Stock Exchange. (*Exhibit 1*) As of November 30, 2020, its total market capitalization was approximately \$32.2 billion. Per Mr. Lee's affidavit, KKR had \$234 billion of assets under management as of September 30, 2020, including \$32.4 billion of assets managed on behalf of insurance companies. (*Exhibit 7*) The financial statements attached to the Form A Statement confirmed similar capitalization levels and amount of assets under management in recent years. (*Exhibit 1; Exhibit 1A*) KKR & Co's credit rating is investment grade with an "A" rating from both S&P and Fitch. The Applicants intend to finance the cash consideration for the

³ Mr. Lee did note in his testimony that one director of KKR & Co. has resigned from its board of directors effective December 31, 2020 and will not be a director of KKR & Co. at the closing of the proposed transaction. (*Trans. at 21*)

proposed transaction with a mix of cash on hand and existing credit facilities. Mr. Lee's affidavit noted that the Applicants do not intend to declare any extraordinary dividend from the Domestic Insurers in connection with the proposed transaction. (*Exhibit 7*)

Mr. Lee testified that the Domestic Insurers will be well-managed and financially stable insurance companies following the closing of the Merger Agreement. Given the above and the financial statements provided by the Applicants, Mr. Lee stated that the Applicants are financially sound and that the acquisition of the Domestic Insurers will neither jeopardize their financial position nor prejudice the interests of its policyholders. In addition, Mr. Lee stated that, after the consummation of the proposed transaction, the Domestic Insurers will continue to satisfy the requirements for issuance of licenses to write the lines of insurance for which they are presently licensed. (*Trans. at 26-27*)

Mr. Lee further testified that the proposed acquisition will not substantially lessen competition in insurance in Iowa. Mr. Lee noted that the Applicants do not currently control any insurer that writes any insurance business in Iowa or any other U.S. state. As such, he testified that the proposed transaction would not result in any consolidation of existing competitors in the insurance market that would reduce choice for insurance-buying customers in Iowa or otherwise have a negative impact on competition in Iowa. (*Trans. at 26; Exhibit 1; Exhibit 7*)

Mr. Lee testified that the directors and executive officers of the Applicants who will be involved in managing the Domestic Insurers after the proposed transaction have the requisite competence, experience, and integrity such that the interests of the policyholders of the Domestic Insurers and the public will not be jeopardized by the proposed transaction. He further stated that very experienced and competent management teams of the Domestic Insurers' business will continue to manage them following the proposed transaction (*Trans. at 28-29*)

Mr. Lee testified that the Applicants have no plans to liquidate the Domestic Insurers or make any material changes to the Domestic Insurers' business. The Applicants also have no plans to consolidate or merge the Domestic Insurers with any other person. (*Trans. at 27*) In addition, Mr. Lee stated that there are no plans to change the boards of directors or senior management of either Domestic Insurer. (*Trans. at 28-29*) Mr. Lee did note that the Applicants did intend for the Domestic Insurers to enter into new investment management agreements with Kohlberg Kravis Roberts & Co. L.P., an affiliate of the Applicants, either at or after the closing of the proposed transaction. Such agreements are not a condition to the closing of the Merger Agreement. (*Trans. at 24-25*)

Mr. Sherrill is the Head of Corporate Development for GAFGL and a Managing Director of Accordia. Mr. Sherrill confirmed the Domestic Insurers' and GAFGL's agreement with Mr. Lee's testimony on behalf of the Applicants and support for the Form A Statement. Mr. Sherrill testified that the Domestic Insurers and GAFGL respectfully requested that the Commissioner approve the proposed transaction. (*Trans. at 35-36*)

IV. FINDINGS OF FACT

The statutory requirements that the Applicants' acquisition plan must meet are relatively straightforward. Iowa Code § 521A.3(4)(a) provides that the Commissioner is to approve an application for acquisition of control if, after a public hearing on such acquisition, the applicant has demonstrated to the Commissioner all of the following:

1. That after the change of control the domestic insurer will 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;
2. That the effect of the acquisition of control will not substantially lessen competition in insurance in the State of Iowa;
3. That the financial condition of any acquiring party will not jeopardize the financial stability of the insurer, or prejudice the interests of its policyholders;
4. That 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, are not unfair or unreasonable to policyholders of the insurer and are not contrary to the public interest;
5. That the competence, experience, and integrity of those persons who would control the operation of the insurer are sufficient to indicate that the interests of the policyholders of the insurer and of the public will not be jeopardized by the acquisition of control; and
6. That the acquisition of control is not likely to be hazardous or prejudicial to the insurance-buying public.

Based upon the evidence in the record viewed as a whole, the Commissioner finds as follows:

1. After the change of control, the Domestic Insurers will be able to satisfy Iowa licensure requirements and continue writing the line or lines of insurance for which they are presently licensed.

Iowa Code § 521A.3(4)(a)(1) requires an applicant to demonstrate to the Commissioner that, after the change of control, the acquired domestic insurer will be able to satisfy the requirements for issuing a license to write the line or lines of insurance for which it is presently licensed.

Mr. Lee testified that after the consummation of the proposed transaction, the Domestic Insurers will each continue to satisfy the requirements for issuance of a license to write the lines of insurance for which they are presently licensed. Evidence in the record supports the conclusion that the Domestic Insurers will continue to satisfy all capital and surplus requirements for licensure under Iowa law post-acquisition. In particular, the Commissioner notes that the Applicants' business plan for the Accordia, which was attached to the Form A Statement, calls for a sound plan of operation, with sufficient capital levels, sound capital and investment management plans, and a comprehensive risk management approach. (*Exhibit 1A*) This is further supported by the fact that the Domestic Insurers' current senior leadership teams will continue to manage and support the continuity of the Domestic Insurers' businesses upon the completion of the proposed transaction. (*Exhibit 1*) Mr. Lee noted in his affidavit that the Applicants believe the acquisition will benefit policyholders by strengthening the Domestic Insurers' risk-adjusted returns over time. (*Exhibit 7*) Mr. Lee's testimony and affidavit gain further support from the evidence regarding the financial

strength and significant financial resources of the Applicants and the evidence that the proposed acquisition will not jeopardize the financial position of the Domestic Insurer. (*Exhibit 1; Trans. at 26–27*)

The Commissioner finds that the Domestic Insurers' ability to satisfy Iowa licensure requirements and their ability to continue writing existing lines of insurance for which they are licensed will be unimpaired after the change of control.

2. The effect of Applicants' acquisition of control of the Domestic Insurers will not substantially lessen competition in insurance in Iowa.

Iowa Code § 521A.3(4)(a)(2) requires an applicant to demonstrate to the Commissioner that the effect of the acquisition of control will not substantially lessen competition in insurance in Iowa.

A review of the increases in an applicant's market shares within the state is a strong indicator of whether an acquisition will substantially lessen competition in insurance in Iowa. Specifically, the consolidation of existing competitors in the insurance market could reduce choice for insurance-buying customers in Iowa or otherwise have a negative impact on competition in Iowa. Both the records states and Mr. Lee testified that none of the Applicants currently control any insurer that writes any insurance business in Iowa or any other U.S. state. Consequently, as there is no consolidation of existing competitors, the proposed transaction will not produce any market share increase in the direct written insurance premium in any line of business in Iowa. (*Exhibit 1; Exhibit 7; Trans. at 26*)

Given there will be no impact on Iowa market shares, the Commissioner finds that the Applicants' acquisition of control of the Domestic Insurers will not substantially lessen competition in insurance in Iowa.

3. The Applicants' financial condition will not jeopardize the financial stability of the Domestic Insurers or prejudice the interests of their policyholders.

Iowa Code § 521A.3(4)(a)(3) requires an applicant to demonstrate to the Commissioner that the applicant's financial condition will not jeopardize the financial stability of the acquired domestic insurer, or prejudice the interest of its policyholders.

Pursuant to the Merger Agreement, shareholders of GAFGL will be entitled to receive an aggregate amount equal to 100% of the book value of GAFGL⁴ on the date of the closing of the proposed transaction, subject to certain adjustments at closing. (*Exhibit 1; Trans. at 23*) The book value of GAFGL as of September 30, 2020 was approximately \$4.5 billion. (*Trans. at 23*) As part of the transactions contemplated in the Merger Agreement, certain existing equityholders of GAFGL and GAFL (including current equityholders of LAMC) may elect to receive equity of Magnolia Parent as consideration for the mergers instead of cash. The cash merger consideration payable by the Applicants thus will be reduced by the amounts attributable to the value of the equity of Magnolia Parent to be received by such rollover equityholders. (*Exhibit 1*)

⁴ The book value of GAFGL is defined as GAFGL's equity excluding accumulated other comprehensive income.

Financing is not a condition to the closing of the proposed transaction. Pursuant to an equity commitment letter, KKR Group Partnership has committed to provide or cause to be provided to Magnolia Parent the equity financing necessary to fund the cash merger consideration for the closing of the Merger Agreement. In addition to the equity commitment, The Applicants intend to fund a portion of the cash consideration using funds from third-party co-investors in Magnolia Parent to be identified by the Applicants prior to closing.⁵

The Applicants acknowledge that the equity infusion through KKR Group Partnership may be funded through one or more means, including the Applicants' cash on hand (which may be generated by raising additional capital through debt or equity offerings prior to the closing or from the realization of the Applicants' investment portfolio prior to closing) or drawings under existing revolving credit facilities. (*Exhibit 1*) As of September 30, 2020, KKR & Co had cash and short-term investments of approximately \$5 billion and an undrawn \$1 billion revolving credit facility. In August 2020, KKR & Co completed \$1.9 billion of securities transactions, consisting of a \$1.15 billion offering of mandatory convertible preferred stock and a \$750 million offering of senior notes. The Applicants will have also closed transactions involving balance sheet investments that have generated cash proceeds of at least \$750 million prior to the closing of the proposed transaction. (*Exhibit 7*) The Applicants have further asserted that, in the event they choose to fund a portion of the cash merger consideration via existing revolving credit facilities or a new debt offering, no extraordinary dividends from the Domestic Insurers will be required to be distributed to serve any such borrowings. (*Exhibit 1*)

The record and Mr. Lee's testimony indicates that the Applicants are financially strong. KKR & Co is a global investment, whose common stock is publicly traded on the New York Stock Exchange. (*Exhibit 1; Exhibit 7*) As of November 30, 2020, KKR & Co had a total market capitalization of \$32.2 billion. KKR & Co further had \$234 billion of assets under management as of September 30, 2020. In addition, KKR & Co has an investment grade credit rating of "A" from both S&P and Fitch. (*Exhibit 7*) In addition, the Applicants' financial statements were submitted along with the Form A Statement. (*Exhibit 1; Exhibit 1A*) Together with Mr. Lee's testimony, these statements demonstrate that the financial health of the Applicants will in no way jeopardize the financial interests of the Domestic Insurers or prejudice the interests of the policyholders. (*Exhibit 1; Exhibit 1A; Trans. at 27, 29*)

Given the facts in the record, the Commissioner finds neither the acquisition itself nor the other post-acquisition plans will create a material adverse financial impact on the Domestic Insurers. There being no evidence of a material adverse financial impact on the Domestic Insurers, the Commissioner further finds that the interests of the Domestic Insurers' policyholders will not be prejudiced by the Applicants' financial position.

⁵ The Applicants have represented to the Division that no co-investor in Magnolia Parent will control Magnolia Parent, as defined in Iowa Code § 521A.1(3). (*Exhibit 1*)

4. The Applicants' proposed post-acquisition changes in the Domestic Insurer's business or corporate structure or management are not unfair or unreasonable to the Domestic Insurers' policyholders and are not contrary to the public interest.

Iowa Code § 521A.3(4)(a)(4) requires an applicant to demonstrate to the Commissioner that the applicant's plans or proposals to liquidate the domestic insurer, sell its assets or consolidate or merge it with any person, or to make any other material change to the acquired domestic insurer's business or corporate structure or management, are not unfair or unreasonable to its policyholders and are not contrary to the public interest.

The facts in the record indicate that the Applicants have no present plans to liquidate, consolidate, or merge the Domestic Insurers, beyond the merger transaction described in the Form A Statement, or to sell their assets. The Domestic Insurers will maintain their separate corporate existence and simply be indirect subsidiaries of the Applicants. No material changes in the Domestic Insurers' business, corporate structure, or management are currently planned. (*Exhibit 1; Exhibit 7; Trans. at 27–28*) The Applicants further plan to maintain GAFGL's approximately 228 employees in Iowa. (*Trans. at 25*)

After the merger has been completed, the Applicants intend to maintain the Domestic Insurers' business in Iowa and continue to operate a prudent, risk-adjusted investment strategy to support the long-term profile of the Domestic Insurers' life insurance products. The Applicants do not have plans to change the Domestic Insurers' general investment strategy, their general asset classes, or overall investment grade fixed income orientation of their investments, or to significantly increase their exposure to non-traded assets. However, the Applicants' acknowledged that they do plan to cause the Domestic Insurers to enter into new investment management agreements with Kohlberg Kravis Roberts & Co. L.P., an affiliate of the Applicants, either at or after the closing of the proposed transaction (each an "Investment Management Agreement"). (*Exhibit 1; Trans. at 24–25*) The Commissioner understands that the Investment Management Agreements are anticipated to include increases to the management fees paid by the Domestic Insurers. The Applicants assert that the Investment Management Agreements should boost the Domestic Insurers' net investment returns and should more than offset the increase in management fees, providing an overall benefit to the Domestic Insurers' policyholders. (*Exhibit 7*) While the Investment Management Agreements were not submitted with the Form A Statement, the Commissioner notes that such agreements are subject to required approvals of the Division and Commissioner, each pursuant to a Form D statement, and must be done in compliance with applicable statutory and regulatory requirements.

On the basis of the foregoing evidence, the Commissioner finds that the Applicants' proposed post-acquisition business plans and transactions are not unfair or unreasonable to its policyholders and are not contrary to the public interest.

5. The competence, experience and integrity of those persons who will control the operation of the Domestic Insurers are sufficient to indicate that the interests of the Domestic Insurers' policyholders and the public will not be jeopardized by the Applicants' acquisition of control of the Domestic Insurers.

Iowa Code § 521A.3(4)(a)(5) requires an applicant to demonstrate to the Commissioner that the competence, experience and integrity of those the applicant selects to control the operations of the acquired domestic insurer are sufficient to indicate that policyholders' interests and the public interest will not be jeopardized by the acquisition.

To that end, the Commissioner must review detailed information of the person or persons who would be in control of the insurer in the event the application is approved. This analysis focuses not on intermediate control but on ultimate control of the insurer. An "ultimate controlling person" is broadly defined in Iowa Administrative Code rule 191-45.2(3) as one who is not controlled by any other person. An ultimate controlling person may include, but is not limited to, an individual or business enterprise.

With respect to this analysis, the proposed acquisition is straightforward. The Domestic Insurers are currently indirect, wholly owned subsidiaries of GAFL. Once Merger Sub and GAFL are each merged into GAFGL, the Domestic Insurers will be indirect, wholly owned subsidiaries of GAFGL, which in turn is a direct, wholly owned subsidiary of Magnolia Parent. Magnolia Parent is in turn controlled, through intermediaries, by KKR & Co,⁶ a publicly traded corporation that is itself controlled by KKR Management. KKR Management is in turn controlled by Kravis and Roberts. (*Exhibit 1*)

Facts in the record indicate that the ultimate controlling persons are experienced and competent based upon their current experience in the insurance industry. Biographical affidavits for each of the individual ultimate controlling parties along with those of the directors and executive officers of both the entity ultimate controlling parties and the Domestic Insurers post-closing were submitted to the Division, along with confidential background reports on the biographical affidavits prepared by an independent third-party. (*Exhibit 1; Exhibit 1A; Exhibit 7*)

The Commissioner finds that the competence, experience, and integrity of those individuals and entities that would control the operation of the Domestic Insurers after the acquisition are sufficient to indicate that the interests of the Domestic Insurers' policyholders and of the public will not be jeopardized by the Applicants' proposed acquisition of control of the Domestic Insurers.

⁶ Pursuant to the Merger Agreement, certain equityholders of GAFGL and GAFL may choose to receive rollover equity in Magnolia Parent instead of cash as consideration for the merger. In addition, pursuant to the Merger Agreement, KKR may identify co-investors who will provide capital contributions directly to Magnolia Parent in order to finance the cash merger consideration. (*Exhibit 1*) As such, Magnolia Parent may not be wholly owned by the remainder of the Applicants at the closing of the proposed transaction. While such co-investors and rollover equityholders had not been identified at the time the Form A Statement was submitted, the Applicants represented to the Division that no co-investor or rollover equityholder will directly or indirectly own ten percent (10%) or more of Magnolia Parent at the closing of the proposed transaction. Accordingly, upon closing, Magnolia Parent and the Domestic Insurers will be controlled solely by the other Applicants.

6. The Applicants' acquisition of control of the Domestic Insurers is not likely to be hazardous or prejudicial to the insurance-buying public.

Iowa Code § 521A.3(4)(a)(6) requires an applicant to demonstrate to the Commissioner that the acquisition of control of the domestic insurer is not likely to be hazardous or prejudicial to the insurance-buying public.

Based upon a thorough review of the record in this proceeding, including Exhibits 1 through 9, Exhibit 1A, and its subparts, and the testimonies of Mr. Lee and Mr. Sherrill, the Commissioner finds that the Applicants' acquisition of control of the Domestic Insurers is not likely to be hazardous or prejudicial to the insurance-buying public of the State of Iowa. The Form A Statement submitted by Applicants, the exhibits thereto, the testimonies of Mr. Lee and Mr. Sherrill, and the other exhibits entered into the record of this proceeding collectively demonstrate that the criteria set forth in Iowa Code § 521A.3(4)(a)(1)–(5) are established. When viewed as a whole, the record indicates that there are no other factors which might make the merger hazardous or prejudicial to the insurance-buying public. Accordingly, the requirements of Iowa Code § 521A.3(4)(a)(6) have likewise been established.

The Commissioner finds that the Applicants' acquisition of control of the Domestic Insurers is not likely to be hazardous or prejudicial to the insurance-buying public.

V. CONCLUSIONS OF LAW

The legislature has vested discretion in the Commissioner not only to hold hearings and make factual findings, but also to interpret and apply the law.

Iowa Code § 521A.3(4)(a) requires the Commissioner to approve an application for acquisition of control if, after a public hearing, the applicant demonstrates all six criteria listed within that section to the Commissioner.

After a careful review of all evidence submitted, the Commissioner concludes, upon substantial evidence, that the Applicants have demonstrated to the Commissioner all six requirements set forth in, and required by, Iowa Code § 521A.3(4)(a). The Applicants' proposed acquisition of control of the Domestic Insurers, as conditioned below, should be approved.

ORDER

IT IS ORDERED that:

The application of Magnolia Parent LLC and the other above-named Applicants for approval of the acquisition of control of Accordia Life and Annuity Company, Cape Verity I, Inc., and Cape Verity III, Inc., each an Iowa domestic insurer, is **APPROVED** subject to the following conditions:

1. The Applicants shall confirm with the Division in writing prior to the closing of the proposed transaction that neither any KKR Co-Investor nor any Rollover Equityholder (each as defined in the Merger Agreement) will own ten percent (10%) or more of Magnolia Parent immediately after the closing of the proposed transaction.
2. The Applicants shall have received all necessary approvals for the proposed transaction from other regulators, including, but not limited to, the Indiana Department of Insurance and the Massachusetts Division of Insurance.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any action challenging the Order shall comply with the requirements of Iowa Code Chapter 17A.

Any application for rehearing shall comply with the requirements of Iowa Code Chapter 17A.

DATED this 4th day of January, 2020.



DOUGLAS M. OMMEN
Commissioner of Insurance

Copies to:

Richard Mancino, Willkie Farr & Gallagher LLP

G. Thomas Sullivan, Nyemaster Goode PC

David Grosbold, Debovoise & Plimpton LLP

Richard Freije, Faegre Drinker Biddle & Reath LLP

Samuel Ramos, Chief Legal Officer and General Counsel, Accordia Life and Annuity Company