

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF IOWA

In the matter of the application of)	
CUNA MUTUAL INSURANCE)	
SOCIETY, for approval of a plan to)	FINDINGS OF FACT,
create CUNA MUTUAL HOLDING)	CONCLUSIONS OF LAW,
COMPANY and CUNA MUTUAL)	AND ORDER
FINANCIAL GROUP, INC., and)	
convert CUNA MUTUAL)	(Iowa Code chapter 521A)
INSURANCE SOCIETY into a stock)	
insurance company)	

I. INTRODUCTION

CUNA Mutual Insurance Society ("Applicant") filed a limited application for approval of a plan to create CUNA Mutual Holding Company ("CUNA Mutual") and, convert Applicant into a stock insurance company to be named CMFG Life Insurance Company ("CMFG Life"), create an intermediate holding company to be called CUNA Mutual Financial Group, Inc. ("CUNA Financial"), and approve the issuance of shares in CMFG Life to CUNA Mutual. CUNA Mutual will then transfer all shares of CMFG Life to CUNA Financial in exchange for all shares of CUNA Financial. As a result, CUNA Mutual will own all of the shares of CUNA Financial, which will own all of the CMFG Life shares, thereby indirectly owning all of the outstanding shares of CMFG Life through its ownership of CUNA Financial. Applicant is an Iowa domestic mutual life insurance company.

Pursuant to Iowa Code section 521A.3(4)(b) (2011), and at Applicant's request, a public hearing was held Thursday, September 8, 2011, at the Iowa Insurance Division ("Division") to determine whether Applicant's proposed reorganization complies with Iowa Code section 521A.14 (2011).

II. JURISDICTION

The Commissioner has jurisdiction over this matter pursuant to Iowa Code sections 521A.3 and 521A.14(1) (2011).

III. EVIDENCE PRESENTED

In support of the limited application, Applicant submitted a "Statement Regarding the Reorganization of a Domestic Insurer" with attached exhibits ("Form A"). Applicant also submitted the testimonies and affidavits of Jeffrey Post, President and Chief Executive of Applicant; Faye Patzner, Senior Vice President, Chief Legal Officer and Secretary of Applicant; Alastair Shore, Senior Vice President, Chief Actuary, and Risk Officer of Applicant; and Margaret Immerfall, Director of Corporate Development of Applicant.

The Division retained Carl Harris of Insurance Strategies Consulting, LLC to review and opine on the Applicant's Dividend Protection Policy ("DPP"). *See* Ex. A. Mr. Harris found that the DPP offered protections that were reasonable and appropriate for the reorganization. *Id.*

Mr. Post is responsible for Applicant's insurance operations and he testified in support of the proposed transaction. Mr. Post testified that Applicant is utilizing the reorganization as a vehicle to improve access to capital, which will enhance Applicant's ability to pursue its objectives of growth and diversification. *See* Trans. at 13; Post Affidavit, p. 8, ¶ 14a. The reorganization will provide a more flexible corporate structure through which ownership of subsidiaries can be realigned. *See* Post Affidavit, p. 8, ¶ 14b. The reorganization will allow Applicant the flexibility to pursue growth through mergers, business combinations, and other strategic alliances. *See* Trans. at 14; Post Affidavit, p. 9, ¶ 14c. After reviewing all options available, Applicant's Board of Directors ("Board") determined that the plan of reorganization contained in the application adequately protects and preserves the interests of the policyholders, is fair and equitable to all policyholders, and will not diminish Applicant's financial condition. *See* Trans. at 15; Post Affidavit, p. 11, ¶ 15.

Ms. Patzner testified to the Board's process in reorganizing Applicant. *See* Trans. at 18; Patzner Affidavit, pp. 2-9, ¶ 4-16. During the September 7, 2011 annual meeting, the policyholders voted to approve Applicant's reorganization by a vote of 77,077 for approval and 5,412 against approval (constituting a 93 percent approval by those policyholders voting on the matter). *See* Trans. at 22; Ex. 2, Affidavit of Voting Inspectors.

Mr. Shore testified to Applicant's Dividend Protection Plan. *See* Trans. at 30-36; Shore Affidavit pp. 3-10. Margaret Immerfall testified to the reasons behind policyholders not receiving the annual meeting informational mailing that consisted of the: Policyholder

Information Statement, Notice of Annual Meeting of Policyholders, Notice of Hearing Before the Commissioner of Insurance of the State of Iowa, and Proxy mailings. *See* Trans. at 37-38.

Of the 537,500 names appearing on the Policyholder mailing list, approximately 10,120 policyholders did not receive the annual meeting informational mailing (constituting 1.88 percent of the total number of names on the Policyholder mailing list). *See* Immerfall Affidavit, p. 3. The majority of member policyholders failing to receive the mailings fell into two categories. *Trans.* at 37. The first being owners of noncontributory Accidental Death and Dismemberment policies and the second were international policyholders. *Id.* at 37-38.

The hearing was adjourned at the close of testimony and the administrative record was formally closed. All evidence was admitted without objection and is part of the record considered by the Commissioner in issuing the following findings, conclusions, and order.

No one appeared at the hearing to oppose Applicant's request or otherwise offer evidence to contradict or question Applicant's submission of evidence.

IV. FINDINGS OF FACT

The statutory requirements which Applicant's limited plan of reorganization must meet are relatively straightforward. Applicant proposes the creation of a mutual insurance holding company with a wholly owned intermediate holding company, which in turn will wholly own a reorganized stock insurance company subsidiary.

Iowa Code section 521A.14(1)(a) (2011) authorizes this corporate structure upon a showing by Applicant that the facts and circumstances supporting the proposed reorganization in forming an insurance holding company meet two statutorily prescribed standards. The standards mandate that: (1) the interests of the policyholders are properly protected; and (2) the plan of reorganization is fair and equitable to the policyholders. *See* Iowa Code section 521A.14(1)(a) (2011).

If Applicant establishes that its application for reorganization meets these requirements, the Commissioner may approve the proposed plan and may require as a condition of approval such modifications of the proposed plan of reorganization as the Commissioner finds necessary for the protection of the policyholder interests. *Id.*

Applying these standards to the evidence presented in the record, and when viewed as a whole, the Commissioner finds the following facts:

1. **After reorganization as a mutual holding company, the interests of Applicant's policyholders will be properly protected.**

Iowa Code section 521A.14(1)(a) requires Applicant to demonstrate to the Commissioner that the interests of the policyholders will be properly protected. Mr. Post affirmed that there would be no change to the current rights of the policyholders. *See* Trans. at 11; Post Affidavit, p. 10, ¶ 15. Mr. Post stated that policyholder ownership of Applicant will not be impacted by the conversion. *See* Trans. at 11; Post Affidavit, p. 10, ¶ 15.

The present policyholder members of Applicant will become members of CUNA Mutual with membership rights, while their policy rights will remain with CMFG Life. *See* Post Affidavit, p. 4, ¶ 7; Ex. 10, Description of the Plan of Reorganization, Page 18. Future policyholders of CMFG Life will become policyholder members of CUNA Mutual. *See* Patzner Affidavit, p. 11, ¶ 19; Articles of Incorporation of CUNA Mutual, Article III.

The reorganization will not result in any change to the financial condition of the Applicant. *See* Trans. at 12; Post Affidavit, p. 11, ¶ 15. No changes will be made to insurance policies, annuity contracts, or insurance licenses. *See* Trans. at 11-12. The reorganization will not result in any changes in services provided to policyholders or in its business practices (including administration, underwriting, or claims practices), or in existing offices, management, staff, or distribution systems. *See* Post Affidavit, p. 5, ¶ 9. Additionally, Applicant's current officers and directors will continue to be officers and directors of the companies created by the reorganization. *See* Trans. at 25; Patzner Affidavit, p. 13, ¶ 22.

The proposed reorganization alters the corporate structure, but does not change the ultimate control or ownership interests which Applicant's policyholders currently maintain. *See* Trans. at 23-24; Patzner Affidavit, pp. 10-11, ¶ 18-19.

Following a review of Applicant's plan of reorganization, it was found that the reorganization offers reasonable and appropriate protection for policyholders of universal life policies, variable universal life insurance policies, and indeterminate premium term insurance policies based on the historical practices of Applicant and CUNA Mutual Life Insurance Company. *See* Ex. A.

Nothing in the record supports a finding that the proposed reorganization is adverse to Applicant's policyholders' interests. The Commissioner finds that these interests will be properly protected and unimpaired following the reorganization.

2. **The plan of reorganization as a mutual holding company is fair and equitable to the policyholders.**

Iowa Code section 521A.14(1)(a) requires Applicant to demonstrate to the Commissioner that the proposed plan of reorganization is fair and equitable to the policyholders. As stated above, the proposal (1) maintains the status of Applicant's present policyholders as members of CUNA Mutual and will not result in changes to their policy rights; (2) provides that future policyholders of CMFG Life will become members of CUNA Mutual; and (3) maintains Applicant's ability to service and pay policyholders claims and benefits.

Mr. Post testified at the hearing that after the proposed reorganization, Applicant's policyholders will indirectly own, through their 100 percent ownership of CUNA Financial, 100 percent of CMFG Life. *See* Trans. at 11; Post Affidavit, p. 3, ¶ 6.

Any accumulation or prospective accumulation of earnings by CUNA Mutual in excess of that determined by its Board to be necessary shall inure to the benefits of its Members. *See* Patzner Affidavit, p. 19, ¶ 24, § K; Plan of Reorganization, Art. 5.11(b); CUNA Mutual Articles of Incorporation, Art. IV. Additionally, CUNA Mutual may not waive dividends, unless they are applied for the benefit of CUNA Mutual policyholder members. *Id.*

In the event of the dissolution, liquidation, or winding up of CUNA Mutual, any assets of CUNA Mutual remaining after payment of all liabilities shall be distributed to the policyholders. *See* Patzner Affidavit, p. 20, ¶ o; Articles of Incorporation of CUNA Mutual, Art. IV; Plan of Reorganization of Applicant § 5.14. Iowa law provides that assets of an insurance holding company are subject to policyholder claims in the event of an insurer's insolvency and liquidation. *See* Iowa Code section 521A.14(4) (2011).

Mr. Shore testified and submitted an affidavit on the Dividend Protection Plan. The DPP was originally established for any policyholder groups as a part of the 2007 merger between Applicant and CUNA Mutual Life Insurance Company. *See* Trans. at 30; Shore Affidavit, pp. 3-4, ¶ 6.

Mr. Shore testified that the DPP contemplates that Applicant will protect the reasonable dividend expectations of policyholders owning participating individual life insurance contracts based on the current and historical dividend payment practices of CUNA Mutual Life Insurance Company and Applicant. *See* Trans. at 31-32; Shore Affidavit, p. 6, ¶ 11. Applicant will also protect the reasonable expectations of the policyholders of universal life insurance policies, variable universal life insurance policies and indeterminate premium term insurance policies based on current and historical practices of Applicant. *Id.*

Under the reorganization plan, the DPP was amended to incorporate additional protections for participating policies which have been issued subsequent to the 2007 merger between Applicant and CUNA Mutual Life Insurance Company. *Trans.* at 31. The amended DPP covers all dividend-paying individual life insurance and annuity policies and supplementary contracts as well as certain interest-sensitive life insurance policies and some term policies with indeterminate premiums in force with Applicant at the time of the proposed reorganization. *See* Trans. at 31-32; Shore Affidavit, p. 6, ¶ 12.

The DPP does not cover other policies such as annuities (except for dividend-paying individual annuities and supplementary contracts), health insurance contracts and group insurance contracts, as none of those policies are dividend paying in nature. *See* Trans. at 32; Shore Affidavit, p. 6, ¶ 12. Mr. Shore testified that the amended dividend policy provides a sound basis for protection of reasonable dividend expectations of participating policyholders, current dividend scales will be maintained if the experience underlying the current dividend scales continues, and the dividend scales will be adjusted appropriately if experience changes. *Trans.* at 35.

Following a review of Applicant's plan of reorganization, it was found that the reorganization offers reasonable and appropriate protection for the reasonable dividend expectations of Active Participating Policyholders based on the current and historical dividend payments of practices of the Applicant and CUNA Mutual Life Insurance Company. *See* Ex. A.

The Commissioner finds that the dividend protection plan protects and preserves the interests of the policyholders.

The Commissioner notes that, from a policyholder perspective, the reorganization proposed by Applicant would do nothing more than create a different organizational structure within which Applicant operates.

Support for this finding is found in Iowa law, which provides that assets of an insurance holding company are subject to policyholder claims in the event of an insurer's insolvency and liquidation. *See* Iowa Code section 521A.14(4) (2011). Nothing in the record supports a contrary finding to those noted above.

The plan of reorganization is fair and equitable to the policyholders and the Policy Information Statement adequately described the reorganization and its effects on member policyholders.

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 section 521A.14(1)(a) (2011) permits the Commissioner to approve an application for reorganization as an insurance holding company based on a mutual plan if, after a public hearing, the applicant meets the requirements listed within that section. After careful review of all the documents and evidence submitted, the Commissioner concludes, based upon substantial evidence, that Applicant has demonstrated all requirements set forth in, and required by, section 521A.14(1)(a) (2011). None of these standards are violated by Applicant's proposed reorganization.

ORDER

IT IS THEREFORE ORDERED THAT:

CUNA Mutual Insurance Society's limited application for approval of a plan to reorganize, including the authorization and issuance of stock as specified in the plan, is **APPROVED**.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2011). Any action challenging the Order shall comply with the requirements of Iowa Code chapter 17A (2011).

Any application for rehearing shall comply with the requirements of Iowa Code Chapter 17A (2011).

Dated this 7th day of October, 2011.



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