

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE

= = = = =

In the Matter of the Restructuring of
EMPLOYERS INSURANCE OF WAUSAU, a Mutual company,
by EMPLOYERS INSURANCE OF WAUSAU, a Mutual company,
and Liberty Mutual Insurance Company,

Petitioners.

Case No. 00-C26776

= = = = =

TRANSCRIPT OF PROCEEDINGS

= = = = =

Date: Monday, September 17, 2001

Time: 1:10 o'clock p.m.

Reported by HEIDI L. DAVIS

1 THE ADMINISTRATIVE LAW JUDGE: For
2 purposes of the record, I'm Bud Mandt. I have been
3 designated as the hearing examiner for Case No.
4 00-C26776.

5 This is a prehearing conference held in
6 connection with the restructuring of Employers
7 Insurance of Wausau, a mutual company, by Employers
8 Insurance of Wausau, a mutual company, and Liberty
9 Mutual Insurance Company.

10 The hearing is held in Room 6 at the Office of
11 the Commissioner of Insurance, Madison, Wisconsin,
12 at 1:15 p.m. The hearing is held pursuant to
13 Section 227.44 (4) of the Wisconsin Statutes.

14 I guess at this time I would ask the attorneys
15 representing the various parties to state their
16 appearances.

17 MS. PARRETT: Noreen Parrett,
18 LaFollette, Godfrey & Kahn, for Employers Insurance
19 of Wausau, a mutual company.

20 MR. HOFFERT: Stan Hoffert, general
21 counsel, vice president and secretary for Employers
22 Insurance of Wausau, a mutual company.

23 MR. OLAFSSON: Craig Olafsson,
24 assistant --

25 MR. SULLIVAN: This is Robert J.

1 Sullivan from Skadden, Arps, Slate, Meagher & Flom
2 representing Employers Insurance of Wausau.

3 MR. WELCH: Ed Welch, counsel also
4 for Employers Insurance of Wausau, a mutual
5 company.

6 MR. QUINLAN: Richard P. Quinlan for
7 Liberty Mutual working with the Employers Insurance
8 of Wausau.

9 MR. MAY: David B. May working for
10 Employers Insurance of Wausau.

11 MR. OLAFSSON: Craig Olafsson,
12 assistant general counsel, Wausau Insurance
13 Companies, for Employers Insurance of Wausau, a
14 mutual company.

15 THE ADMINISTRATIVE LAW JUDGE: So
16 that's it for appearances. Based on the record,
17 I'm prepared to enter a prehearing conference
18 memorandum as follows.

19 Number 1, no motions were filed related to
20 this proceeding with the Office of the Commissioner
21 of Insurance prior to September 13th, 2001 or prior
22 to the prehearing conference.

23 2, the sole appearances made in this
24 proceeding and at the prehearing conference are
25 those as noted on the record today. 3, exhibits

1 for the hearing shall be filed no later than
2 October 12th, 2001.

3 4, the issues in this proceeding are
4 accurately stated in the notice of hearing. 5, the
5 applicant may file a prehearing memorandum.

6 6, unless the administrative law judge
7 otherwise specifically directs at the hearing, the
8 record of the hearing will be closed following the
9 conclusion on October 16th, 2001. 7, the record of
10 the public hearing scheduled for 2 p.m. on
11 October 16th, 2001 will be admitted into the record
12 of the contested case.

13 8, the hearing will be held at the time and
14 place described in the notice of hearing. 9, no
15 motions to allow discovery under Section INS 5.53,
16 Wisconsin Administrative Code, has been received
17 and no discovery will be allowed.

18 MS. PARRETT: Could you just repeat
19 8?

20 THE ADMINISTRATIVE LAW JUDGE: Yes.
21 8, the hearing will be held at the time and place
22 described in the notice of hearing.

23 MS. PARRETT: And also 7.

24 THE ADMINISTRATIVE LAW JUDGE: 7,
25 the record of the public hearing scheduled for 2

1 p.m. on October 16th, 2001 will be admitted into
2 the record of the contested case.

3 MS. PARRETT: The contested case
4 hearing, just as a point, the contested case
5 hearing will be held first --

6 MR. HOFFERT: -- pursuant to the
7 notice as heretofore been issued by the department,
8 is that correct?

9 MR. NEPPLE: Uh-huh.

10 MS. PARRETT: Wouldn't it be the
11 other way around? Wouldn't the evidence that's
12 entered into the contested case hearing be --

13 MR. HOFFERT: -- entered in for the
14 record in the public hearing?

15 MR. NEPPLE: This is Fred Nepple,
16 general counsel with the office. And I think those
17 questions are being directed to me.

18 I think the contested case hearing is the
19 hearing on approval of the application and the
20 public hearing is for purposes of hearing public
21 comment on that application. So I would think it
22 would be -- the public hearing record would be
23 admitted into the contested case hearing.

24 MR. HOFFERT: So you actually
25 anticipate that we will have a contested case

1 hearing notwithstanding the fact that we don't have
2 any other parties other than the applicant to
3 participate in and go forward with putting on
4 evidence during the contested case hearing. Once
5 that's completed, then any evidence that was heard
6 on the public hearing then will be --

7 MR. NEPPLE: Incorporated into --

8 MR. HOFFERT: -- incorporated into
9 the contested case proceedings, is that correct?

10 MR. NEPPLE: Right, and made part of
11 the record of the application for approval of the
12 transaction before the office.

13 THE ADMINISTRATIVE LAW JUDGE: Is
14 everybody in agreement now?

15 MR. SULLIVAN: This is Bob Sullivan
16 from Skadden. Would also the reverse be true or
17 would the applicant, Employers Insurance of Wausau,
18 a mutual company, merely have to make a motion at
19 the beginning of the public hearing to ask that
20 testimony provided in the contested case hearing be
21 inserted into the hearing record of the public
22 hearing?

23 MR. NEPPLE: This is Fred Nepple for
24 the office again. I don't think there is any
25 problem with doing it both ways. I think, in fact,

1 both records are part of the record of the
2 application pending before the office. So I don't
3 think there is any problem with incorporating it
4 both ways.

5 MR. HOFFERT: In follow-up on
6 Mr. Sullivan's comment, I think we would anticipate
7 and ask the hearing officer or counsel of the
8 department to guide us otherwise if this is
9 improper, but I think we will make a motion to
10 incorporate the evidence in testimony that we
11 present in the contested case hearing in the public
12 hearing at the initiation and commencement of that
13 public hearing.

14 MR. NEPPLE: If that's agreeable
15 with the administrative law judge, the prehearing
16 memorandum can simply reflect that.

17 THE ADMINISTRATIVE LAW JUDGE: You
18 have no problems with that, Mr. Nepple?

19 MR. NEPPLE: No, I don't.

20 THE ADMINISTRATIVE LAW JUDGE: Then
21 I don't either. Is there anything else?

22 MR. SULLIVAN: Bob Sullivan from
23 Skadden again. Just a point of clarification, I
24 couldn't tell if there was a date set on the
25 prehearing memorandum as to when they would need to

1 be filed, or is it any time prior to the
2 commencement of the public hearing?

3 THE ADMINISTRATIVE LAW JUDGE: I
4 don't know.

5 MR. NEPPLE: When what would need to
6 be filed?

7 THE ADMINISTRATIVE LAW JUDGE: The
8 prehearing memorandum.

9 MR. NEPPLE: The prehearing
10 memorandum is usually sent out immediately after
11 the prehearing. I'm not -- what was the question
12 again?

13 MR. HOFFERT: Is there a date by
14 which we must file the prehearing memorandum in
15 order to have it admitted as part of the record in
16 evidence in this proceeding?

17 MR. NEPPLE: I'm sorry, I was
18 confusing the prehearing conference memorandum with
19 the proposed prehearing memorandum. Do you have a
20 suggestion?

21 MR. SULLIVAN: I guess our proposal
22 would be that at the same time that the exhibits
23 that go into the hearing record would probably be
24 the date, which I understood it to be Friday,
25 October 12th.

1 MR. NEPPLE: I don't see any
2 difficulty with that.

3 THE ADMINISTRATIVE LAW JUDGE: Okay.
4 October 12th, 2001 will be the time to file it by.
5 Any other comments at this point?

6 MR. JUNIOR: This is Steven Junior
7 with the Office of the Commissioner of Insurance.
8 Will there be any opportunity for the State of
9 Wisconsin or the petitioners to file information or
10 exhibits on October 16th, the date of the hearing,
11 the way number 3 is worded?

12 MR. NEPPLE: I understood that the
13 deadline was October 12th.

14 THE ADMINISTRATIVE LAW JUDGE:
15 Right.

16 MR. JUNIOR: Okay.

17 THE ADMINISTRATIVE LAW JUDGE: Any
18 other comments?

19 MR. WELCH: This is Ed Welch from
20 Skadden, Arps. Just one quick question by way of
21 planning. I'm wondering the approximate time that
22 the department thinks is appropriate to allocate,
23 again just for planning purposes, for the hearing?

24 MR. SULLIVAN: For the contested
25 case hearing?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. WELCH: That's correct.

MR. NEPPLE: The hearing was -- this is Fred Nepple again. The hearing was scheduled for one hour. And again, there is the opportunity to prefile testimony so the testimony can be on a summary basis in the oral transcript. There is also the opportunity to file, as to the public hearing, to file additional written comments after the hearing is concluded.

MR. SULLIVAN: This is Bob Sullivan from Skadden, Arps. Mr. Nepple, just a follow-up question, and that is, would it be acceptable to file certain of the prefile testimony as what I would refer to as prefiled evidence so that we would make the witness available at the hearing, he would put into evidence his testimony, but would not go through any testimony other than putting in his prefile testimony as prefiled evidence?

MR. NEPPLE: The office wouldn't have any objection to that. Obviously you are indicating that the witness will be present and will be available to answer questions if there are any questions I assume?

MR. SULLIVAN: Thank you.

THE ADMINISTRATIVE LAW JUDGE:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Anything else? Okay. This prehearing is closed.
Thank you.

(1:20 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE

= = = = =

In the Matter of the Restructuring of
EMPLOYERS INSURANCE OF WAUSAU, a Mutual company,
by EMPLOYERS INSURANCE OF WAUSAU, a Mutual company,
and Liberty Mutual Insurance Company,

Petitioners.

Case No. 00-C26776

= = = = =

C E R T I F I C A T E

I, HEIDI L. DAVIS, hereby certify that as
the duly-appointed shorthand reporter, I took in shorthand
the proceedings had in the above-entitled matter on the
17th day of September, 2001, commencing at 1:10 p.m., and
that the attached is a true and correct transcription of
the proceedings so taken.

Dated at Madison, Wisconsin this 19th day
of September, 2001.

Notary Public, State of Wisconsin

