

OFFICE OF THE COMMISSIONER OF INSURANCE
STATE OF WISCONSIN

In the Matter of the Acquisition of Control
Of Physicians Insurance Company of Wisconsin, Inc.
By American Physicians Assurance Corporation

Case No. 04-C29283

**AMERICAN PHYSICIANS ASSURANCE CORPORATION'S RESPONSE TO
PHYSICIANS INSURANCE COMPANY OF WISCONSIN, INC.'S REQUEST
FOR ADMISSION AS A PARTY**

American Physicians Assurance Corporation ("APA") files this response to the Request for Admission As A Party ("Request") filed by Physicians Insurance Company of Wisconsin, Inc. ("PIC").

APA recognizes that the Commissioner has discretion to permit PIC to participate as a party in this matter. APA neither consents nor objects to the Request. However, in the Request and accompanying affidavits, PIC has made certain misrepresentations, some of which are addressed below.

First, PIC has attached an affidavit from Mr. Montei that claims that APA's parent, American Physicians Capital, Inc., has "experienced significant financial difficulty." This statement is inaccurate and misleading. It is true that APA took an adjustment to its loss reserves in the third quarter of 2003 as a result of developing trends in its actuarial data that indicated that the severity of claims development exceeded projections. Since that loss adjustment, APA has recorded earnings in every quarter, far outpacing the projections made by market analysts at the beginning of 2004. By comparison, on a relative percentage basis, the loss reserve adjustment taken by PIC in the third quarter of 2003 was much more dramatic than the one taken by APA. While

APA's loss reserves developed adversely by approximately 9 percent, PIC's loss reserves developed adversely by 13 percent. (Compare APA's financial statements as filed with the OCI, with the annual statement filed by PIC for 2003). Between December 31, 2003 and June 30, 2004, APA has added approximately \$72 million to its statutory surplus, demonstrating that it is achieving its financial goals and projections.

Second, Mr. Montei also notes that American Physicians Capital has been named in a securities lawsuit. American Physicians has asked the Court to dismiss the lawsuit as frivolous, and is waiting for a hearing on its motion. The sole purported basis for the lawsuit is that APA adjusted its loss reserves in the third quarter of 2003. As APA has argued to the Court, an adjustment in loss reserves does not constitute a sufficient basis to assert a securities fraud claim. Even if the lawsuit proceeds, APA has more than adequate insurance for the claim.

Third, Mr. Montei also claims that American Physicians Capital "acquired" Physicians Insurance Company, an insurance company in the State of Florida, in 2003, and that it is currently exploring options to divest its investment in that company. APA has no idea where Mr. Montei obtained his "information" or how he formed his "belief," but his representation is wrong. APA has a 49 % passive investment in Physicians Insurance Company, a company it helped form in order to provide policyholders with an alternative source of professional liability insurance in the State of Florida. APA did not acquire the company. APA is not exploring "various options" to divest its interest in that company. APA is talking only with the majority shareholder who has expressed a potential interest in acquiring APA's interest in the company.

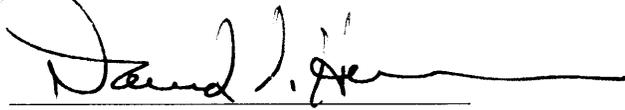
Fourth, Mr. Montei's affidavit states that PIC takes issue with the manner "in which APAC solicited proposed sellers of PIC stock." The sellers approached APA and other companies in the market segment regarding the potential acquisition of the sellers' shares.

While APA disputes the conclusory statements in Mr. Montei's affidavit and in the accompanying motion, it will respond at the hearing if PIC is admitted as a party and if PIC's allegations are considered to be relevant. We note that the allegations are not particularly relevant where APA is only seeking to be a passive minority investor in PIC.

APA also notes one serious concern. Based on Mr. Montei's letter to the Commissioner dated September 29, 2004, APA believes that PIC may try to use the Form A process to attempt burdensome discovery focused on issues other than the central issue of whether APA should, under the statutory standards, be permitted to become a minority shareholder of PIC. *See* § 611.72 Wis. Stats. PIC management has been willing, in both their request for admission and in statements to its shareholders, to publicly make disparaging remarks about APA and its affiliates. Its strong opposition may be based on wishful thinking if it needs discovery to prove its case and; if it didn't have the information to back up its claims (or perhaps no claims at all) it should not be permitted a fishing expedition. Accordingly, if PIC is admitted as a party, APA will request that PIC requests for discovery be limited.

Michael Best & Friedrich, LLP

Attorneys for the Applicant
American Physicians Assurance Corporation

A handwritten signature in black ink, appearing to read "David J. Hanson", written over a horizontal line.

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