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STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE

CLASS 1 CONTESTED CASE ADMINISTRATIVE HEARING

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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

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TRANSCRIPT OF PROCEEDINGS

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Date: Tuesday, October 16, 2001

Time: 1:00 o'clock p.m.

Reported by LINDA KUHLMAN

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APPEARANCES (Continued)

ALSO PRESENT: GEORGE K. BERNSTEIN
CLIFFORD W. SMITH, JR.
DAVID B. MAY
JAMES J. McINTYRE
WALTER J. BLAEDEL

= = = = =

THE HEARING EXAMINER: Okay. Good
afternoon. I'm Matthew C. Mandt, Director of the
Bureau of Financial Analysis and Examinations,
presiding as hearing examiner over Case No.
00-C26776, concerning the restructuring of
Employers Insurance of Wausau, a mutual company,
under a mutual holding company plan. Fred Nepple,
general counsel, and Steven Junior, a financial
examiner with the office are also present.

Today's hearing is being held at the
Founders Room in the Hilton Madison Monona Terrace,
Madison, Wisconsin at 1 p.m. on Tuesday,
October 16, 2001. This hearing is being held as a
class one contested case hearing in accordance with
Chapter 227 and Sections 644.07 and 601.62 of the
Wisconsin Statutes. The proceedings are being
transcribed by Professional Reporters, Ltd.

Wisconsin law allows a mutual insurance
company to convert to a stock insurance company by
placing the mutual policyholders' ownership rights

1 in a mutual holding company, which then becomes the
2 owner of the newly-converted stock insurance
3 company. The restructuring must be approved by the
4 Office of the Commissioner of Insurance and then by
5 a majority of the mutual policyholders that choose
6 to exercise their right to vote.

7 Employers Insurance of Wausau has filed a
8 plan with the Office of the Commissioner of
9 Insurance to undergo such a restructuring. A
10 public hearing is scheduled immediately to follow
11 this class one contested case administrative
12 hearing to allow any organization or individual to
13 express their views on this mutual holding company
14 plan.

15 In addition to the public hearing, this
16 class one contested case administrative hearing has
17 been scheduled for Employers Insurance of Wausau, a
18 mutual company, and Liberty Mutual Insurance
19 Company to make their case for Employers Insurance
20 of Wausau's restructuring under a mutual holding
21 company plan.

22 Will the petitioners please state for the
23 record by whom they're represented.

24 MS. PARRETT: Noreen Parrett,
25 LaFollette, Godfrey & Kahn, for petitioners

1 Employers Insurance of Wausau, a mutual company,
2 and Liberty Mutual Insurance Company.

3 Also appearing is Robert Sullivan and
4 Edward Welch of Skadden, Aprs, Slate, Meagher and
5 Flom; Stanley Hoffert, vice president, general
6 counsel and secretary of EIOW, Employers Insurance
7 of Wausau, a mutual company; and Richard Quinlan,
8 vice president of Liberty Mutual Insurance Company.

9 THE HEARING EXAMINER: Do the
10 attorneys have any preliminary matters or questions
11 that need to be addressed at this time?

12 MR. WELCH: Mr. Mandt, I just
13 thought it might be appropriate at this point to
14 confirm the hearing exhibits, which perhaps we'll
15 speak to in a moment, as well as the prefiled
16 testimony, as well as the transcript for this
17 hearing would be included into the record of the
18 public hearing, and I note for the record that
19 paragraph seven of the conference order entered by
20 the OCI earlier specifically provides for that.

21 THE HEARING EXAMINER: Yes, I agree
22 with that.

23 MR. WELCH: Okay.

24 THE HEARING EXAMINER: Okay. And is
25 there a brief opening statement that the attorneys

1 would like to give?

2 MR. WELCH: There is, Mr. Mandt.
3 I'm to provide one. I'm wondering if it would be
4 appropriate at this point to move into the record
5 the hearing exhibits which have been prefiled with
6 the OCI, as well as the prefiled testimony, if
7 that's acceptable to you.

8 THE HEARING EXAMINER: That's fine,
9 and I note for the record that the list of exhibits
10 prepared by the applicants are admitted into the
11 record.

12 MR. WELCH: Two other quick comments
13 on that, Mr. Mandt. Number one, we did have one
14 additional exhibit in the form of a letter from
15 Noreen Parrett to Steve Junior which included the
16 Gary Butler, Alan Rudnick and William Van Fossen
17 affidavits.

18 Having spoken just briefly with Mr. Junior
19 prior to the hearing, his suggestion was that be
20 included as Exhibit 35 since the entry that was
21 made for Exhibit 35 in the prefile list is not
22 included.

23 THE HEARING EXAMINER: Is that in
24 this list or not?

25 MR. WELCH: That was the bylaws that

1 were sent over yesterday, that that be included as
2 Exhibit 35 in the prefiled list which is now blank.

3 THE HEARING EXAMINER: All right. I
4 agree with that.

5 MR. WELCH: Thank you, sir. At this
6 point I'd like to make a brief opening. As Noreen
7 Parrett said I'm Ed Welch. I'm accompanied here
8 today by Robert Sullivan. We're both members of
9 the law firm of Skadden, Arps, Slate, Meagher and
10 Flom. Together with Noreen Parrett of the
11 LaFollette, Godfrey & Kahn firm, we're representing
12 Employers Insurance of Wausau, a mutual company,
13 which we'll call throughout the proceedings as EIOW
14 at today's hearing.

15 Today's hearing involves the proposed
16 restructuring of EIOW. Pursuant to EIOW's mutual
17 holding company plan, EIOW will form as its parent
18 the Employers Insurance of Wausau Mutual Holding
19 Company, which we'll call throughout the
20 proceedings as EIOW MHC for short. EIOW will also
21 convert from a Wisconsin mutual insurance company
22 to a Wisconsin stock insurance company.

23 Before I continue I'd like to mention that
24 some of these terms we'll be using throughout the
25 proceeding today are the same ones set forth in the

1 policyholder information statement which appears as
2 Exhibit 23 in the hearing record that was mailed to
3 EIOW policyholders earlier this year.

4 EIOW's restructuring is part of the series
5 of transactions resulting in EIOW and its
6 Massachusetts affiliates, specifically Liberty
7 Mutual Insurance Company, LMIC from time to time in
8 the record, and Liberty Mutual Fire Insurance
9 Company, LMFIC, all reorganizing to stock insurance
10 companies under the common ownership of a single
11 mutual holding company. The mutual holding company
12 will be called LMHC.

13 Before discussing what EIOW's restructuring
14 is about, I'll provide a little bit of background
15 on the record on EIOW and the company's
16 relationship to LMIC as well as LMFIC.

17 EIOW is a Wisconsin mutual property and
18 casualty insurance company. It was founded in
19 1911. The company conducts a property and casualty
20 business. EIOW had approximately 16,600
21 policyholders as of September 14, 2000, the date
22 that EIOW's board of directors originally adopted
23 EIOW's mutual holding company plan.

24 Now, the relationship among EIOW, LMIC and
25 LMFIC. Those companies are each mutual insurance

1 companies, meaning that they are each separately
2 owned by their respective policyholders. EIOW and
3 LMIC each have subsidiaries, while LMFIC doesn't.

4 While EIOW, LMIC and LMFIC are distinct
5 legal entities, I'm sure it's clear to the OCI now
6 that they're also affiliates. They participate in
7 an intercompany reinsurance pool called a Liberty
8 Pool. The Liberty companies are also affiliated
9 with each other by virtue of their shared
10 management, employees and operating systems as well
11 as other staff services. Finally, LMIC provides
12 management and operating services to EIOW and LMFIC
13 through various management holdings.

14 Now, EIOW's restructuring will be
15 undertaken in connection with EIOW's mutual holding
16 company plan, which is the legally operative
17 document. EIOW's mutual holding company plan is
18 included in this record as Exhibit 23.4 in the
19 hearing record, and there will basically four steps
20 to what we're talking about here today.

21 First, EIOW will form EIOW MHC, a mutual
22 holding company. Secondly, EIOW will convert to
23 Employers Insurance Company of Wausau, a Wisconsin
24 stock property and casualty insurance company,
25 which again we'll refer to as Converted EIOW.

1 Thirdly, EIOW MHC will be issued 100
2 percent of the initial voting stock of Converted
3 EIOW, and all equity rights of EIOW members in EIOW
4 will be extinguished and replaced with equity
5 rights in EIOW MHC. Members' contract rights in
6 EIOW will continue uninterrupted in that company.

7 What about the member requirements? Well,
8 since EIOW is a Wisconsin mutual insurance company,
9 its restructuring is subject to the provisions of
10 the Wisconsin Statutes regarding mutual holding
11 companies. The mutual holding company provisions
12 under which EIOW will restructure are set forth in
13 Chapter 644 of the Wisconsin Statutes.
14 Consummation of that restructuring will require
15 EIOW to obtain three approvals for its mutual
16 holding company plan. First by its board, the
17 second by the Wisconsin Commissioner and third by
18 EIOW members.

19 What about the first? Well, Section
20 644.07(3) governs that approval. According to that
21 section, EIOW's mutual holding company plan has to
22 be approved by the board. That's been satisfied.
23 EIOW's board of directors unanimously adopted a
24 mutual holding company plan on September 14 of
25 2000. In addition to that, EIOW's mutual holding

1 company plan was subsequently amended with the
2 unanimous approval of the board on August 21st of
3 2001 in a certified copy of the board's resolution,
4 which is included as Exhibit 52 in the hearing
5 record.

6 What about approval by the commissioner?
7 Well, Section 644.07(7) is the applicable section.
8 Pursuant to that section, the Wisconsin
9 Commissioner shall, after convening a hearing,
10 which is why we appear here, approve EIOW's mutual
11 holding company plan under that section unless she
12 determines that first EIOW's mutual holding company
13 plan violates the law. It clearly does not.
14 Number two, EIOW's mutual holding company plan is
15 not fair and equitable to the policyholders of
16 EIOW. Not a problem with respect to that.
17 Thirdly, EIOW's mutual holding company plan is
18 contrary to the interests of the policyholders of
19 EIOW or the public, and again, the record will show
20 that's not an issue.

21 Now, the Wisconsin Commissioner shall also
22 consider, legal analysis, whether EIOW's mutual
23 holding company plan would be detrimental to the
24 safety and soundness of EIOW or to the contractual
25 rights and reasonable expectations of those persons

1 who are policyholders on the effective date of
2 restructuring. And of course, EIOW must have
3 complied with the applicable filing requirements to
4 which it clearly has.

5 Thirdly, what about approval by the
6 members? Well, approval of the EIOW mutual holding
7 company plan by the members will require EIOW to
8 comply with both the Wisconsin Statutes and
9 applicable bylaws.

10 First, the Statutes. Section 644.07(8)
11 governs that. It's the applicable section. That
12 means approval by the members. EIOW's mutual
13 holding company plan must be approved by a vote of
14 at least a majority of persons who are the
15 policyholders on the resolution date, that's
16 September 14 of 2000, and who remain policyholders
17 on the record date, and that's October 31st of
18 2001, and who vote at the special meeting in person
19 or by proxy for EIOW's mutual holding company plan.
20 So that's the statutory requirement.

21 Secondly, the bylaws. Well, in accordance
22 with EIOW's bylaws, at least a majority of the
23 policyholders who are members on the record date
24 and who vote at the special meeting must vote for
25 EIOW's mutual holding company plan.

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What about witnesses and other evidence?
Well, EIOW company witnesses and expert witnesses will testify here today about how the regulatory standards that the Wisconsin Commissioner must find have been met before approving the plan have indeed been satisfied.

In addition to that, as the OCI is no doubt aware there has been extensive prefiling by testimony of each of our witnesses, as well as a filing of a prehearing memorandum which appears in Exhibit 36 and sets forth in detail how EIOW met all of the statutory requirements and all of the standards for approval by the Wisconsin Commissioner of its mutual holding company plan.

Before I conclude, let me just take a minute on the global transaction. The MHC merger involving EIOW and the reorganization of Liberty Mutual Fire Insurance Company are not the subject of today's hearing but nevertheless they're related.

First, the MHC merger. Pursuant to the MHC merger agreement, Liberty Mutual Holding Company and EIOW MHC, which is the mutual holding company of EIOW, merge with Liberty Mutual Holding Company as the surviving mutual entity. Simultaneous with

1 this mutual holding company, the Converted EIOW
2 will merge with Wausau Insurance Acquisition
3 Corporation, a direct, wholly-owned subsidiary of
4 Liberty Mutual Holding Company. Converted EIOW
5 will be the surviving entity of that new merger.

6 As a direct result of the MHC merger,
7 Converted EIOW will become a subsidiary of Liberty
8 Mutual Holding Company. Converted EIOW Members'
9 Equity Rights in EIOW MHC will be extinguished and
10 replaced with equity rights in Liberty Mutual
11 Holding Company.

12 Now, with respect to the reorganization and
13 combination agreement, LMFIC will also convert from
14 a mutual stock insurance -- pardon me, will convert
15 to a mutual stock insurance company and immediately
16 thereafter merge with Liberty Insurance Acquisition
17 Corporation, a direct, wholly-owned subsidiary of
18 Liberty Mutual Holding Company. Reorganized LMFIC
19 will be the surviving entity of that merger.

20 As a direct result of the reorganization
21 and combination agreement, reorganized LMFIC will
22 become a subsidiary of Liberty Mutual Holding
23 Company. The reorganized LMFIC members' equity
24 rights in LMFIC will be extinguished and replaced
25 with equity rights in Liberty Mutual Holding

1 Company.

2 Now, as I said a few moments ago, extensive
3 prefiled testimony and extensive prehearing
4 exhibits were filed with OCI. Our suggestion here
5 today would be that EIOW provide a summary of
6 certain of that testimony by certain of its
7 witnesses. All of the witnesses are here to affirm
8 the truthfulness and accuracy of their testimony.
9 So if there are any questions, every witness is
10 here available to answer those questions.

11 Now, that concludes my opening statement,
12 Mr. Mandt, and unless you have anything further my
13 suggestion would be that we call to the stand on
14 the left James McIntyre, president and chief
15 operating officer of Employers Insurance of Wausau,
16 a mutual company.

17 THE HEARING EXAMINER: That's fine.
18 The court reporter will swear in the witness.

19 JAMES McINTYRE,
20 called as a witness, being first duly
21 sworn in the above cause, testified
22 under oath as follows:

23 EXAMINATION

24 BY_MR._WELCH:
— — —

25 Q Mr. McIntyre, have you prefiled certain testimony with

1 the OCI?

2 A Yes, I have.

3 Q And is that prefiled testimony true and correct to the
4 best of your knowledge, information and belief?

5 A Yes, it is.

6 Q And are you able today to summarize that testimony for
7 Mr. Mandt?

8 A Yes, I can.

9 Q Why don't you go forward and do that.

10 A Good afternoon. On behalf of the board of directors and
11 the management of the Employers Insurance of Wausau, a
12 mutual company, I thank you for the opportunity to
13 participate in this hearing today. We're very pleased
14 to be part of this process, and we appreciate the chance
15 to discuss the rationale behind our proposed
16 restructuring.

17 Let me first thank the staff of the Office of the
18 Wisconsin Commissioner of Insurance for its hard work
19 throughout this lengthy process, as well as the
20 commissioner and any members of the public gathered here
21 today. I know I speak for the entire board and
22 management of Wausau when I say we are convinced that
23 the restructuring of Wausau is beneficial to our
24 company, our policyholders and our community. We
25 appreciate this opportunity to explain why.

1 I'd like to take the next few minutes to discuss
2 the changes in our industry, the challenges in our
3 structure and the best choice for our future. As most
4 of you know, the insurance industry is in a time of
5 tremendous change.

6 First, there is the emergence of large consolidated
7 entities that have significant national and
8 international presence. In 1999, the industry made more
9 than 275 deals totaling in excess of \$28 billion, and
10 that was a slow year. The examples are abundant --
11 Aetna P&C acquired by Travelers, USF&G acquired by
12 St. Paul and American General acquired by AIG.

13 There are several reasons for this trend toward
14 size. The obvious ones are building scale and gaining
15 market share in mature markets. Less obvious and
16 perhaps counterintuitive is that more information has
17 led to less choice.

18 Buyers of the insurance products, like many other
19 consumers, are overloaded with information on products,
20 prices, features and competitors. Yet they have limited
21 psychic shelf space and a scarcity of time and
22 attention. As a result, they're buying from fewer and
23 fewer companies, and we expect this trend to continue.

24 Larger companies have some distinct operating
25 advantages. They can spread fixed costs over a larger

1 enterprise. They better absorb the investment in
2 information technology enhancements and expanded
3 distribution channels, and they provide policyholders
4 with increased security resulting from association with
5 a larger insurer. Unfortunately, the horrible events of
6 September 11, which are estimated to cost the insurance
7 industry some \$40 billion, underscore the need for
8 larger, stronger insurers.

9 Along with the rampant consolidation, the industry
10 is experiencing a new level of competition. First,
11 foreign insurance companies are acquiring U.S. insurers
12 at a rapid pace. Allianz purchased Fireman's Fund,
13 Zurich bought Farmers, Aegon bought Transamerica, to
14 mention but a few.

15 Secondly, federal legislation, the Gramm-
16 Leach-Bliley bill, has eliminated barriers among
17 insurance, banking and financial services companies and
18 has spawned the potential for more powerful competition.
19 And finally, the need for investment in the Internet and
20 other technologies which lower the cost of delivery and
21 service, increase the need to spread those investments
22 over larger books of business.

23 So as we consider the options for Wausau within the
24 Liberty Mutual Group, we do so in the context a rapidly
25 changing industry, an increase in larger, more

1 consolidated companies, a new level of competition and a
2 new capacity to reach and serve customers whenever and
3 wherever and however they like.

4 In this context growth is imperative. In fact,
5 economically, the alternative to growth is not statis,
6 it is decline. The companies that continue to thrive
7 will be those that have the capital, the flexibility,
8 the financial strength and the global reach to be
9 effective -- to compete effectively.

10 So as the industry changes, so too must Wausau.
11 Yet the confines of our current organizational structure
12 keep us from making the very changes we most need to
13 make.

14 So what are these changes. First, we must change
15 our capacity to grow. If we are to provide our
16 policyholders with secure protection and high quality
17 service at a competitive price, we must be able to share
18 in the growth and capital accumulation of the Liberty
19 Mutual Group as a whole to spread our risks and costs
20 and to attract and pay for the talent we need to
21 succeed.

22 And all growth takes capital. At present, Wausau
23 can realistically increase its resources only by
24 retained earnings derived from operating results and
25 investment gains. As a mutual insurer, its ability to

1 participate in any future capital raising strategies of
2 the Liberty Mutual Group and benefit from the Group's
3 continued growth and capital accumulation will be
4 limited. However, short of merging and the resulting
5 loss of licenses and brand names, the equity in
6 companies, we can only do so through the unwieldy
7 governance structure we now have.

8 Flexibility of capital is essential for both growth
9 and stability, and in an era of unforeseen losses in the
10 property and casualty sector, capital flexibility
11 becomes increasingly important. Because of our mutual
12 structure, Wausau's ability to access external sources
13 of capital is limited. As a result, there are limits in
14 our ability to share in the resources of the Liberty
15 Mutual Group as a whole in an optimal manner based on
16 our business needs.

17 Secondly, we must change the inefficiency inherent
18 in our corporate structure. Today, Wausau is one of
19 three separately run companies in the Liberty Mutual
20 Group, with three separate boards and three separate
21 annual meetings, Wausau, Liberty Mutual Insurance and
22 Liberty Mutual Fire Insurance.

23 This structure breeds redundancies and
24 inefficiencies in governance and administration. It
25 also stands in the way of our realizing our full

1 economic value and participating in the collective
2 strength of the Liberty Mutual Group. As a mutual
3 insurance company we are unable to streamline and
4 simplify our corporate relationships with our
5 affiliates.

6 Nonetheless, we are a mutual company and we want to
7 remain a mutual. It is Wausau's tradition and the
8 tradition of the other mutual insurers in the Liberty
9 Mutual Group. It is how we do business, the essence of
10 who we are.

11 As a mutual company we are free to operate from a
12 somewhat longer-term perspective. We preserve our
13 ability to hold the interests of our policyholder-owners
14 in the highest regard. And as a result, we all help
15 prevent accidents and injuries and minimize losses.
16 Mutuality gives us all a vested interest in proactively
17 helping people live safer, more secure lives.

18 In so many ways, mutuality makes sense. Yet within
19 this new competitive landscape, we must be flexible,
20 efficient and capable of growth. The restructuring will
21 enable Wausau to realize these objectives.

22 The mutual holding company structure provides
23 Wausau with a future. It is our chance to not be
24 squeezed out by competition. It is our chance to
25 operate efficiently by realizing the value of our

1 affiliation with the other converting mutual insurers in
2 the Liberty Mutual Group. It is our chance to have
3 flexibility should we ever need to access additional
4 capital, and it is our chance to have our policyholders
5 retain ownership of a company capable of growing. It's
6 clearly our chance to not be immediately acquired or
7 merged, as would likely happen if the Liberty Mutual
8 Group were to engage in a demutualization.

9 By becoming a mutual holding company we build on
10 the best of our mutual tradition and can pursue the most
11 of our potential. We do so on behalf of the
12 policyholders we serve and the communities we so proudly
13 support.

14 I do thank you for your time and thoughtful
15 consideration.

16 THE HEARING EXAMINER: I have one
17 question. You talked about redundancies and
18 inefficiencies, a current system perpetuates that.
19 What are the savings that's anticipated? Can you
20 be more specific?

21 THE WITNESS: In each of the three
22 companies today the redundancies in operating each
23 of the independent companies does have inherent
24 Inefficiencies and redundancies in their current
25 structure.

1 By moving to the mutual holding company
2 structure we eliminate many of those redundancies
3 that we operate within the independent
4 organizations today, such as the board of directors
5 meetings will continue, we'll continue in terms of
6 our financial operating issues, but there are many
7 other redundancies in terms of the organizational
8 structure that we will not have to go through.

9 THE HEARING EXAMINER: What is that
10 in terms of dollar savings? Do you have any
11 numbers?

12 THE WITNESS: No, I don't have any
13 financial numbers.

14 THE HEARING EXAMINER: I guess my
15 other thought would just be -- does that include
16 reductions in staff, is that what you're talking
17 about?

18 THE WITNESS: Actually --

19 THE HEARING EXAMINER: You talk
20 about growth also --

21 THE WITNESS: This is to --

22 THE HEARING EXAMINER: Do you
23 anticipate any reductions in staff through the
24 restructuring of the organizations?

25 THE WITNESS: We've actually got

1 individuals supporting the Employers Insurance of
2 Wausau as we move through this. We don't plan on
3 any reductions.

4 THE HEARING EXAMINER: Thank
5 you.

6 MR. WELCH: Mr. Mandt, with your
7 permission our next witness will be Jonathan
8 Plutzik, vice chairman of Credit Suisse First
9 Boston.

10 JONATHAN PLUTZIK,
11 called as a witness, being first duly
12 sworn in the above cause, testified
13 under oath as follows:

14 EXAMINATION

15 BY_MR._WELCH:
— — —

16 Q Mr. Plutzik, you have previously filed testimony with
17 the OCI prior to today, isn't that correct?

18 A Yes, it is.

19 Q And to the best of your knowledge, information and
20 belief is that testimony truthful and correct?

21 A Yes, it is.

22 Q And do you have a statement that you're prepared to
23 deliver to Mr. Mandt today?

24 A I do.

25 Q Proceed with that.

1 A Thank you. Good afternoon. My name is Jonathan Plutzik
2 and I'm vice chairman of Credit Suisse First Boston.
3 CSFB has acted as financial advisor to EIOW in
4 connection with its restructuring and issued a fairness
5 opinion to the board of directors of EIOW with respect
6 thereof.

7 CSFB also expects to act as financial advisor to
8 EIOW MHC and to Liberty Mutual Holding Company in
9 connection with the MHC merger and has acted as
10 financial advisor to LMIC and LMFIC with regard to their
11 respective reorganizations.

12 CSFB issued a fairness opinion to each of LMIC and
13 LMFIC pertaining to their respective reorganizations,
14 and I provided testimony at last week's public hearing
15 in Massachusetts in connection therewith.

16 CSFB was asked to advise the board of directors of
17 EIOW with respect to the fairness to EIOW policyholders
18 who are members, taken as a group, from a financial
19 point of view, of the extinguishment of their equity
20 rights in EIOW and the replacement of such equity rights
21 with equity rights in EIOW MHC and the continuance of
22 their contract rights in Converted EIOW, pursuant to
23 EIOW's draft mutual holding company plan dated from
24 September 14, 2000 as amended on August 21st, 2001, and
25 pursuant to the MHC merger agreement and the

1 consummation of the MHC merger agreement, assuming that
2 such agreement was consummated as of the date of CSFB's
3 opinion.

4 CSFB's fairness opinion, like all other fairness
5 opinions of this type, did not consider the fairness of
6 the restructuring or the MHC merger agreement to any
7 individual policyholder or class of policyholders, but
8 rather addressed the fairness of the relevant
9 transaction from a financial point of view to
10 policyholders who are members, taken as a group.

11 In addition, CSFB's fairness opinion did not
12 address the decision of the board of directors of EIOW
13 to proceed with the restructuring or with either or both
14 the MHC merger agreement and the reorganization and
15 combination agreement or with any other potential
16 transactions in which EIOW might engage in lieu of, or
17 in addition to, the restructuring or the transactions
18 which comprise the global transaction.

19 CSFB conducted its analysis from a number of
20 perspectives. We assessed the EIOW restructuring and
21 the MHC merger agreement using five basic factors --
22 form, structure, flexibility, financial strength and
23 policyholder interest. All of these factors are
24 addressed in my prefiled testimony. In addition, the
25 due diligence that CSFB conducted and the assumptions

1 that CSFB relied upon in connection with the rendering
2 of its fairness opinion is also set forth in my prefiled
3 testimony.

4 Based upon our review of the various documents and
5 subject to certain assumptions and also certain
6 information provided to CSFB by EIOW, it is CSFB's
7 opinion that, as of the date our opinion to the EIOW
8 board was issued, which was August 21st, 2001, the
9 extinguishment of members' equity rights in EIOW and the
10 replacement of such equity rights with equity rights in
11 EIOW MHC and the continuance of the members' contract
12 rights in Converted EIOW pursuant to EIOW's mutual
13 holding company plan and the MHC merger agreement, is
14 fair to the policyholders who are members of EIOW, taken
15 as a group, from a financial point of view, and assuming
16 that the MHC merger agreement was consummated as of
17 August 21st, 2001 in accordance with its terms, the MHC
18 merger agreement is fair to policyholders or members of
19 EIOW MHC, taken as a group, from a financial point of
20 view. Thank you.

21 MR. WELCH: All right. Thank
22 you very much, Mr. Plutzik. Again, Mr. Mandt, with
23 your permission, our third and final witness today
24 would be James Stanley Hoffert, vice president,
25 general counsel and secretary of Employers

1 Insurance of Wausau.

2 JAMES STANLEY HOFFERT,
3 called as a witness, being first duly
4 sworn in the above cause, testified
5 under oath as follows:

6 EXAMINATION

7 BY_MR._WELCH:

8 Q Mr. Hoffert, like the prior witnesses you have also
9 prefiled certain testimony with the OCI, is that
10 correct?

11 A That is correct.

12 Q In your view is that testimony truthful and correct to
13 the best of your knowledge, information and belief?

14 A It is.

15 Q Do you have a statement which you're prepared to use to
16 summarize that testimony for Mr. Mandt here today?

17 A I do. Good afternoon, Mr. Mandt. My name is James
18 Stanley Hoffert. I'm the vice president, general
19 counsel and secretary of Employers Insurance of Wausau.
20 I joined Wausau in 1978 as inhouse counsel and have held
21 various legal and governmental affairs positions with
22 the company during the past 23 years.

23 First, on behalf of myself, Wausau and Liberty
24 Mutual Group, I want to express my appreciation for the
25 diligent, thoughtful and thoroughly professional manner

1 in which the OCI has considered our filing for a mutual
2 holding company restructuring under Chapter 644 of the
3 Wisconsin Statutes. I will keep my remarks brief this
4 afternoon and summary in nature in covering my written
5 testimony and the other evidence which have been entered
6 into the record in this hearing.

7 The EIOW mutual holding company plan was initially
8 approved and adopted by its board of directors in
9 September of last year. The board in August of this
10 year also approved and adopted an amended version of
11 such plan, including amended versions of a number of the
12 plan's related documents.

13 The plan and other documents after the board
14 actions both in September and -- September, 2000 and
15 August of 2001 were timely filed with the OCI. These
16 other documents included the policyholder information
17 statement, the articles and bylaws of both EIOW MHC and
18 Converted EIOW, lists of proposed directors and other
19 documents relevant to the restructuring and global
20 transaction.

21 In addition to our filings with OCI we also filed,
22 as required under Chapter 644, the mutual holding
23 company plan with the insurance regulatory authorities
24 in all jurisdictions in which EIOW is authorized to
25 conduct business.

1 I now would like to briefly review our plan
2 relative to the statutory standards under Chapter 644.
3 As set forth in our prehearing brief filed with the OCI,
4 the plan meets the applicable standards which the
5 commissioner, under Chapter 644, is to apply to a
6 Chapter 644 filing to determine whether approval of such
7 a plan is warranted.

8 The plan is fair and equitable to our policyholders
9 from both a legal and financial standpoint. This was
10 testified to in the prefiled testimony of Mr. Condrin,
11 Mr. Yahia, Mr. Bernstein and Professor Clifford Smith.
12 In addition and also as testified to today, the firm of
13 CSFB has given its opinion to the EIOW board, both in
14 September of last year and in August of this year, that
15 from a financial standpoint the plan is fair and
16 equitable to the company's policyholders.

17 To briefly elaborate, EIOW's policyholders'
18 contract rights will remain unchanged by the
19 reorganization. Their equity rights in EIOW will be
20 exchanged for equity rights, first in the EIOW MHC and
21 then after the global transaction's contemplated merger
22 in the LMHC, a larger, more diversified corporate entity
23 than Employers Insurance of Wausau Mutual Holding
24 Company.

25 As I will briefly cover in a minute, none of these

1 proposed transactions will result in any of our
2 policyholders realizing any financial gain or loss for
3 tax purposes. In summary, our plan is not contrary to
4 the interests of our policyholders or to the general
5 public. Stated in the affirmative, the plan benefits
6 our policyholders by making them an integral part, both
7 as policyholders and as members, of the larger,
8 stronger, more flexible and diversified LMHC. And
9 having such organizations in the insurance marketplace,
10 we believe, is clearly in the public interest.

11 Currently EIOW's capital and the contemplated
12 paid-in capital of Converted EIOW far exceed the minimum
13 regulatory levels. As set out in Mr. Condrin's and
14 Professor Smith's testimony, the restructuring will give
15 Wausau access to greater capital if and when such a need
16 arises. This clearly increases EIOW's strategic and
17 structural flexibility, which is necessary for long-term
18 growth.

19 Focusing for a moment on our policyholders and the
20 procedural process in which he have been engaged in
21 filing for this reorganization, the mutual holding
22 company plan, the policyholder information statement,
23 and policyholder guide, notice of the November 20, 2001
24 special meeting of the policyholders and of today's
25 hearings and other explanatory materials were mailed, as

1 required by Chapter 644, to EIOW's policyholders on
2 August 31 of this year.

3 In addition, policy stuffers giving notice of the
4 restructuring have been mailed to each person or company
5 who became an EIOW policyholder after May 31. May 31 is
6 the cutoff date or was the cutoff date for compiling the
7 list of our current policyholders to make the August 31
8 mailing. We also have in place a toll-free call center
9 to answer policyholders' questions about the
10 restructuring. This was activated on August 31.

11 I think it's important to note and point out that
12 our dividend policies will remain unchanged after
13 restructuring. The policyholder dividends need to be
14 contrasted with equity dividends. Policyholder dividend
15 payments arise out of policy contract rights. Equity
16 dividends arise out of a policyholder's rights as a
17 member of a mutual company.

18 EIOW has paid policyholder dividends during all of
19 its 90-year history. EIOW has never paid an equity
20 dividend to a policyholder. EIOW MHC, because it is not
21 an insurance company, will not pay policyholder
22 dividends. However, Converted EIOW will continue its
23 current policies in the payment of policyholder
24 dividends after the restructuring.

25 One final matter that I've got to cover before I

1 close. EIOW has received a no-action letter from the
2 SEC. This, in essence, means that the equity rights
3 that our policyholders will have in EIOW Mutual Holding
4 Company after the restructuring will not be deemed
5 securities. This determination was a condition of the
6 board to proceeding with the company's restructuring as
7 a mutual holding company organization.

8 Likewise, a private letter ruling was received from
9 the IRS, and the board of directors will receive an
10 opinion from outside counsel, which will result in the
11 board being assured that the exchange of the equity
12 rights in EIOW for those in EIOW Mutual Holding Company
13 will not be recognized under the Internal Revenue Code
14 as either a gain or loss and therefore will not be
15 taxable.

16 Mr. Mandt, this concludes the summary of my
17 submitted written testimony. I would also like to end
18 as I began by thanking the staff for their dedication
19 and direction to us so we may achieve this vital
20 restructuring of our company.

21 THE HEARING EXAMINER: Okay. Thank
22 you, Mr. Hoffert. The record of hearing will
23 be held open to permit consideration of the
24 testimony received, both oral and written, during
25 the public hearing and written comments concerning

1 the mutual holding company plan that are received
2 by the Office of Commissioner of Insurance
3 prior to the close of business on Friday,
4 October 22nd, 2001. This class one contested case
5 hearing is hereby closed.

6 MR. WELCH: Mr. Mandt, pardon my
7 interruption. I apologize. I'm wondering if for
8 sake of the record if it isn't appropriate to call
9 up and just have each of the other witnesses who
10 prefiled their testimony affirm that in fact
11 they're accurate? It should only take a couple of
12 minutes.

13 THE HEARING EXAMINER: That's fine.

14 MR. WELCH: I apologize for
15 interrupting, and we'll make this very brief. We
16 call Mr. Paul Condrin, III, director of Employers
17 Insurance of Wausau, a mutual company, and senior
18 vice president and chief financial officer of
19 Liberty Mutual Group.

20 J. PAUL CONDRIN, III,
21 called as a witness, being first duly
22 sworn in the above cause, testified
23 under oath as follows:
24
25

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EXAMINATION

2

BY_MR._WELCH:
— — —

3

Q Mr. Condrin, you've prefiled testimony with the OCI?

4

A Yes.

5

Q Is that testimony true and the correct to the best of
6 your knowledge, information and belief?

7

A It is, yes.

8

MR. WELCH: Mr. Mandt, I promised

9

you it would be short, and I have no further

10

questions of this witness.

11

THE HEARING EXAMINER: Go ahead.

12

MR. WELCH: EIOW calls Laurence

13

Yahia, vice president and assistant secretary of

14

Employers Insurance of Wausau, and vice president

15

and director of corporate finance of the Liberty

16

Mutual Group.

17

LAURANCE YAHIA,

18

called as a witness, being first duly

19

sworn in the above cause, testified

20

under oath as follows:

21

EXAMINATION

22

BY_MR._WELCH:
— — —

23

Q Mr. Yahia, you also prefiled certain testimony with the

24

OCI --

25

A Yes.

1 Q -- Office of the Commissioner of Insurance, that is
2 correct, isn't it?

3 A Yes, I have.

4 Q And is that testimony true and correct to the best of
5 your knowledge, information and belief, sir?

6 A Yes, it is.

7 MR. WELCH: Thank you, very much.

8 Mr. Mandt, EIOW calls George K. Bernstein of the
9 Bernstein Law Firm, PLLC.

10 GEORGE K. BERNSTEIN,
11 called as a witness, being first duly
12 sworn in the above cause, testified
13 under oath as follows:

14 EXAMINATION

15 BY_MR._WELCH:
16 _____

17 Q Mr. Bernstein, have you prefiled certain testimony with
18 the OCI?

19 A Yes.

20 Q And is that testimony true and correct to the best of
21 your knowledge, information and belief?

22 A Yes.

23 MR. WELCH: Mr. Mandt, I have no
24 further questions of this witness.

25 THE HEARING EXAMINER: Okay.

MR. WELCH: EIOW next calls

1 Professor Clifford Smith, Jr., Louise and Henry
2 Epstein Professor of Business Administration and
3 Professor of Finance at the William E. Simon
4 Graduate School of Business Administration,
5 University of Rochester.

6 CLIFFORD W. SMITH, JR.,
7 called as a witness, being first duly
8 sworn in the above cause, testified
9 under oath as follows:

10 EXAMINATION

11 BY_MR._WELCH:

12 Q Same litany of complex questions, Professor. You have
13 also prefiled certain testimony with OCI, isn't that
14 correct?

15 A Yes.

16 Q Is that testimony true and correct to the best of your
17 knowledge, information and belief?

18 A Yes.

19 MR. WELCH: No further questions of
20 this witness, Mr. Mandt.

21 THE HEARING EXAMINER: Okay.

22 MR. WELCH: EIOW calls David B.
23 May, vice president Employers Insurance of Wausau,
24 and assistant vice president and director of
25 mergers and acquisitions of the Liberty Mutual

1 Group.

2 DAVID B. MAY,
3 called as a witness, being first duly
4 sworn in the above cause, testified
5 under oath as follows:

6 EXAMINATION

7 BY_MR._WELCH:

8 Q Mr. May, you've prefiled certain testimony with the OCI?

9 A That is correct, sir.

10 Q Is that testimony true and correct to the best of your
11 knowledge, information and belief?

12 A It is.

13 MR. WELCH: Mr. Mandt, no further
14 questions of this witness, and I believe that
15 concludes the testimony and presentation of all
16 our witnesses.

17 THE HEARING EXAMINER: Okay. As I
18 stated before, the record of hearing will be held
19 open and permit consideration of the testimony
20 received, both oral and written, during the public
21 hearing and written comments concerning the mutual
22 holding company plan that are received by the
23 Office of the Commissioner of Insurance prior to
24 the close of business on Friday, October 26, 2001.

25 This class one contested case hearing is

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hereby closed at 1:45 p.m on Tuesday, October 16,
2001. Thank you.

I will adjourn for about 10 minutes.

MR. WELCH: Point of clarification,
if I could, Mr. Mandt. I first noted that you were
closing the hearing as of October 22.

THE HEARING EXAMINER: Right. I
changed that to the 26th because I read it wrong.

MR. WELCH: All right.

THE HEARING EXAMINER: So we'll
adjourn for 10 minutes and the public hearing will
convene at five minutes to 2. Thank you.

(1:45 p.m.)

C E R T I F I C A T E

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I, LINDA KUHLMAN, hereby certify that as the
duly-appointed shorthand reporter, I took in shorthand
the proceedings had in the above-entitled matter on the
16th day of October, 2001, commencing at 1:00 p.m., and
that the attached is a true and correct transcription of
the proceedings so taken.

Dated at Madison, Wisconsin this 25th day
of October, 2001.

Notary Public, State of Wisconsin