



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor  
Theodore K. Nickel, Commissioner

Wisconsin.gov

December 17, 2018

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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. William J. Toman  
Quarles & Brady LLP  
33 East Main Street, Suite 900  
Madison, Wisconsin 53703

Re: Case No. 18-C42836 – In the Matter of the Acquisition of Control of Unigard Indemnity Company by Sutton National Insurance Holdings LLC, Brickell Insurance Holdings LLC, MTCP LLC, and Steven Pasko

Dear Mr. Toman:

Enclosed is a copy of the Final Decision in the above-referenced matter.

Any appeal to circuit court for review of this Final Decision must be served on the Commissioner of Insurance, 125 South Webster Street, Madison, Wisconsin 53703.

Sincerely,

Amy J. Malm  
Hearing Examiner

Enclosure

cc: Jennifer J. Vernon, QBE Group (via e-mail only)  
Abigail K. Darwin, Quarles & Brady LLP (via e-mail only)  
Allison J. Tam, Willkie Farr & Gallagher LLP (via e-mail only)  
Aileen C. Meehan, Locke Lord LLP (via e-mail only)

In the Matter of the Acquisition of Control  
of Unigard Indemnity Company  
by Sutton National Insurance Holdings LLC,  
Brickell Insurance Holdings LLC, MTCP LLC,  
and Mr. Steven Pasko,

FINAL DECISION  
AND ORDER

Case No. 18-C42836

Petitioners.

FINAL DECISION

I adopt the Hearing Examiner's Proposed Decision, including the findings of fact and conclusions of law, which is attached to this Final Decision and which was served on the Petitioner with an opportunity for submitting written objections.

Based upon these findings of fact and conclusions of law, I order that:

(14) The Petitioners' request for approval of a plan for acquisition of control is approved, subject to the following conditions subsequent:

- a. Amended and Restated Articles of Incorporation and Amended and Restated Bylaws, which change the name of Unigard Indemnity Company to Sutton National Insurance Company, shall be filed within ten (10) calendar days of the consummation of the proposed change in control.
- b. Unigard Indemnity Company, under its new name of Sutton National Insurance Company, consents to a stipulation and order issued by the Office of the Commissioner of Insurance under s. 601.41, Wis. Stat., which shall be in a form substantially similar to that provided in Exhibit 27 in the record of this proceeding, within thirty (30) calendar days of the consummation of the proposed change in control.
- c. The share purchases and capital contributions specifically described in the plan for the acquisition of control of Unigard Indemnity Company (to be renamed Sutton National Insurance Company) are hereby non-disapproved and no separate notice need be filed or separate non-disapproval obtained for such share purchases and capital contributions pursuant to s. 617.21, Wis. Stat., and s. Ins 40.04 (2) (a), Wis. Adm. Code. The provisions of s. 617.21, Wis. Stat., and s. Ins 40.04 (2) (a), Wis. Adm. Code, shall govern, if applicable, any other share purchases and capital contributions and any dividends by Unigard Indemnity Company.
- d. The affiliated agreements that were non-disapproved in a letter dated November 27, 2018, to John Svoboda, Senior Vice President and

Regulatory Officer, QBE North America, from Kristin L. Forsberg, OCI, dated November 27, 2018, nondisapproving agreements to disengage Unigard Indemnity Company from the QBE Group, subject to approval by QBE North America's Board of Directors and the approval of the Form A by the OCI is included in the record of this proceeding as Exhibit # 23. Unigard Indemnity Company shall file executed copies of the agreements listed in this letter with the OCI within ten (10) calendar days of the consummation of the proposed change in control.

NOTICE OF APPEAL INFORMATION

(Notice of rights for rehearing and judicial review,  
the times allowed for each, and the identification  
of the party to be named as respondent)

The following notice is served on you as part of the Final Decision:

1. Rehearing.

Any person aggrieved by this Final Decision may petition for a rehearing within 20 days after the service of this Final Decision, as provided in s. 227.49, Wis. Stat. A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

A petition for rehearing must be filed with the Commissioner at the address below.

2. Judicial Review.

Any person aggrieved by this Final Decision has a right to petition for judicial review of this Final Decision as provided in s. 227.53, Wis. Stat. The petition must be filed in circuit court within 30 days after service of this Final Decision if there has been no petition for rehearing, or within 30 days after service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

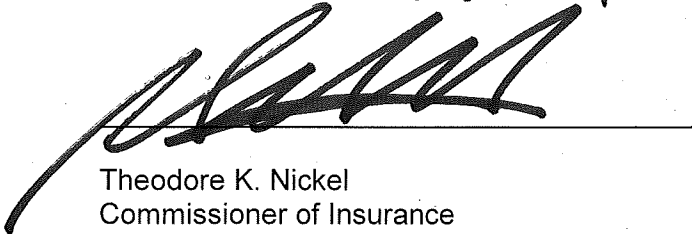
A petition for judicial review must be served on, and name as the Respondent:

Commissioner of Insurance, Respondent  
Office of the Commissioner of Insurance  
P. O. Box 7873  
Madison, Wisconsin 53707-7873

A copy of the relevant statutory provisions is attached.

Dated at Madison, Wisconsin, this

17<sup>th</sup> day of December 2018

  
Theodore K. Nickel  
Commissioner of Insurance

WISCONSIN STATUTES

At all times material, the relevant parts of s. 227.49, Wis. Stat., read as follows:

227.49 PETITIONS FOR REHEARING IN CONTESTED CASES. (1)

A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. . . .

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. . . .

At all times material, the relevant part of s. 227.52, Wis. Stat., read as follows:

227.52 JUDICIAL REVIEW; DECISIONS REVIEWABLE.

Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter. . . .

At all times material, the relevant parts of s. 227.53, Wis. Stat., read as follows:

227.53 PARTIES AND PROCEEDINGS FOR REVIEW. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. . . .

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

. . . .

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. . . .

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. . . .

(d) The agency . . . and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. . . .