

STATE OF WASHINGTON

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MIKE KREIDLER  
STATE INSURANCE COMMISSIONER



OFFICE OF  
INSURANCE COMMISSIONER

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**DECLARATION OF MAILING**

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery of a true copy of this document to parties listed below  
DATED this 7th day of Jan 2008.  
at Tumwater, Washington.

Signed: Wendy Galloway

HEARINGS UNIT  
Fax: (360) 664-2782

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Chief Hearing Officer  
(360) 725-7105

Headline, Ltd. OIC  
Patricia D. Petersen  
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**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF WASHINGTON**

In the Matter of the Merger of:	)	G07-0339
	)	
UNIGARD PACIFIC INSURANCE	)	FINAL ORDER APPROVING
COMPANY, A Washington Domestic	)	MERGER OF UNIGARD
Insurance Company, with and into,	)	PACIFIC INSURANCE COMPANY
UNIGARD INSURANCE	)	WITH AND INTO UNIGARD
COMPANY, A Washington Domestic	)	INSURANCE COMPANY
Insurance Company,	)	
	)	
<u>Applicants.</u>	)	

TO: Jennifer J. Vernon, General Counsel  
QBE Regional Companies (N.A.), Inc.  
One General Drive  
Sun Prairie, WI 53596

Peter G. McPartland, Director, Chief Operating Officer  
Unigard Pacific Insurance Company & Unigard Insurance Company  
15805 NE 24<sup>th</sup> Street  
Bellevue, WA 98008

COPY TO: Mike Kreidler, Insurance Commissioner  
Michael G. Watson, Chief Deputy Insurance Commissioner  
James T. Odiome, Deputy Commissioner, Company Supervision Division  
Carol Sureau, Deputy Commissioner, Legal Affairs Division  
Charles D. Brown, Sr. Staff Attorney, Legal Affairs Division  
Ronald Pastuch, Holding Company Manager, Company Supervision  
Office of the Insurance Commissioner  
P.O. Box 40255  
Olympia, Washington 98504-0255



Pursuant to Chapter 48.04 RCW, Chapter 34.05 RCW, RCW 48.31C.030, and Chapter 284-18A WAC, and after notice to interested parties and persons (see notice detailed below), the above-entitled matter came on regularly for hearing before the Insurance Commissioner of the state of Washington ("Commissioner") commencing at 10 a.m., PST, on December 12, 2007, by telephone upon request of the Applicant and grant of authority by the undersigned pursuant to WAC 10-08-180. All persons to be affected by the above-entitled matter were given the right to be present at such hearing during the giving of testimony, and had reasonable opportunity to inspect all documentary evidence, to examine witnesses and present oral and written statements. The Commissioner appeared pro se, by and through Charles D. Brown, Esq., Sr. Staff Attorney in his Legal Affairs Division. Unigard Insurance Company ("UIC") and Unigard Pacific Insurance Company ("Unigard Pacific") were represented by Jennifer J. Vernon, Esq., Vice President, General Counsel and Corporate Secretary for UIC and Unigard Pacific.

### **NATURE OF PROCEEDING**

The Applicant herein is UIC. By filing a Statement Regarding the Acquisition of Control of or Merger with a Domestic Company ("Form A") with the Commissioner on October 29, 2007, as required by RCW 48.31B.015(1) and (2), UIC has applied to the Commissioner for approval of its proposed merger of Unigard Pacific with and into UIC. Specifically, in this proposed transaction, UIC and Unigard Pacific would merge, with UIC emerging as the surviving entity. Said Form A, which was included in the hearing file as Ex. 1, includes substantial information and agreements concerning this proposed merger as required by RCW 48.31B.015(2) and in accordance with RCW 48.31B.020(3)(a), information and agreements relative to the issues which must be the subject of findings pursuant to RCW 48.31B.015(4), and copies of the relevant current and proposed organizational structures. The requested effective date of the proposed merger is December 31, 2007.

### **FINDINGS OF FACT**

Having considered the evidence and argument presented at the hearing, and the documents on file herein, the undersigned, who was properly designated to hear and make the final determination in this matter, finds as follows:

1. The hearing was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied.
2. QBE Re Services Pty Limited is an Australian insurance holding company which wholly owns QBE Australia Pty Limited, an Australian insurance holding company. QBE Australia Pty Limited owns QBE Investments (North America), Inc., a Delaware insurance holding company. QBE Australia Pty Limited owns 12.90% of all issued and outstanding stock of QBE Holdings, Inc., with QBE Investments (North America), Inc., owning the remaining 87.10% of all issued and outstanding stock of QBE Holdings, Inc., QBE Holdings, Inc., is a Delaware insurance holding company.

3. QBE Holdings, Inc., wholly owns all issued and outstanding stock of QBE Regional Companies (N.A.), Inc., a Delaware insurance holding company, f/k/a Winterthur U.S. Holdings, Inc. QBE Regional Companies (N.A.), Inc., wholly owns all issued and outstanding shares of Unigard, Inc., a Washington insurance holding company. Unigard, Inc., wholly owns UIC.

4. UIC is a Washington domestic stock insurance corporation which has its statutory home office, main administrative office and mailing address at 15805 NE 24<sup>th</sup> Street, Bellevue, Washington, 98008. UIC is licensed by the Commissioner to transact disability, property, marine and transportation, general casualty, surety and vehicle insurance (Washington Certificate of Authority No. 740, NAIC Co. Code 25747), and is also an authorized insurance corporation in 22 states, and operates through independent agents. UIC has authorized capital stock of 30,000 shares of common stock, \$1,090 par value, of which all are issued and outstanding. [Ex. 1, Form A.] UIC owns 100% of the issued and outstanding stock of Unigard Pacific and Unigard Indemnity Company (Washington Certificate of Authority No. 1832, NAIC Co. Code 25798). [Ex. 1, Form A.]

5. Unigard Pacific is a Washington stock insurance corporation which has its statutory home office, main administrative office and mailing address at 15805 NE 24<sup>th</sup> Street, Bellevue, Washington, 98008. Unigard Pacific is licensed by the Commissioner to transact disability, property, marine and transportation, vehicle, general casualty and surety insurance in Washington State (Washington Certificate of Authority No. 211, NAIC Co. Code 11096), and is also a licensed insurance corporation in the state of Oregon. Unigard Pacific has had no direct policyholders since 2003, has no employees, and has had no claims reserves since September 30, 2007. [Declaration of Peter G. McPartland.] Unigard Pacific has authorized capital stock of 30,000 shares of common stock, \$100 par value, of which all are issued and outstanding. [Ex. 1, Form A.]

6. Under the terms of this proposed merger, at the effective time of this proposed merger, each share of Unigard Pacific that is outstanding immediately prior to the effective time of the proposed merger, and all rights and obligations in respect of those shares, would without further action be canceled and extinguished without any consideration therefore. No shares of stock or other consideration of UIC would be issued in connection with the proposed merger. [Ex. 1, Form A.] UIC, as the Surviving Corporation, would thereafter continue to exist by virtue and under the laws of Washington State. The corporate identity, existence, purpose, powers, franchises, rights and immunities of UIC would continue unaffected and unimpaired by the merger, and the corporate identity, existence, purpose, powers, franchises, rights and immunities of Unigard Pacific would be merged with and into UIC, and UIC would be fully vested therewith. The separate existence of Unigard Pacific, except insofar as it may be continued by reason of applicable Washington statute, would cease upon the Plan of Merger filed herein becoming effective and thereupon Unigard Pacific and UIC would become a single corporation, UIC. Further, as of the effective time of the proposed merger, all rights and obligations of Unigard Pacific would become the rights and obligations of UIC as the Surviving Corporation.

7. Further, under the terms of this proposed merger, UIC, the Surviving Corporation, would continue to exist as a domestic insurance corporation under the laws of the state of Washington,

with all of the rights and obligations of such surviving domestic corporation as are provided by the Washington Business Corporation Act.

8. Pursuant to RCW 48.31B.015(1) and (2), on October 29, 2007, UIC properly filed a Form A Statement Regarding the Acquisition of Control or Merger with a Domestic Insurer, together with a Plan of Merger, with the Commissioner in this matter. [Ex. 1, Form A.]

9. The Commissioner has required that detailed notice of the proposed merger be given to the public via the internet (on the Commissioner's website at <http://www.insurance.wa.gov>). Such notice was duly given by the Commissioner, by announcement on the Commissioner's website, notifying the public of the December 12, 2007 hearing herein and the nature of this hearing. Such publication over the internet commenced November 30, 2007, and continued to the date of the hearing, as required by the Commissioner. [Testimony of Ronald J. Pastuch, Holding Company Manager; Affidavit of Ronald J. Pastuch.] Based on this evidence, it is here found that this notice constitutes reasonable notice as required by the Commissioner.

10. In the aforereferenced Notice of Hearing, interested parties were advised that any individual or entity may submit comments and questions on, or objections to, this proposed merger. Said comments or questions were to be submitted to Wendy Galloway, Paralegal to the undersigned, by specified fax, U.S. Mail, or personal delivery by 10:00 a.m., PST, on December 12, 2007. No comments, objections, or questions of any kind were received by the undersigned. Additionally, no objections were received by UIC or Unigard Pacific. [Testimony of Jennifer J. Vernon; Declaration of Jennifer J. Vernon.] Finally, no objections were received by the Commissioner or any of his representatives. [Testimony of Ronald J. Pastuch; Declaration of Ronald J. Pastuch] Based upon this evidence, it is here found that reasonable notice of this proposed merger was properly given, and that no reasonable objection exists.

11. After the proposed merger is consummated, UIC will continue to be able to satisfy the requirements for its license to transact insurance business of the state of Washington in the lines of insurance for which it is presently licensed. [Testimony of Ronald J. Pastuch; Testimony of Peter G. McPartland, Chief Operating Officer of UIC.]

12. The effect of the proposed merger would not be to lessen competition in insurance in this state or tend to create a monopoly therein. [Testimony of Ronald J. Pastuch; Testimony of Peter G. McPartland.] Unigard Pacific has not written insurance for several years, and therefore has not been part of the market at all. [Declaration of Peter G. McPartland.]

13. The proposed merger would not jeopardize the financial stability of UIC or prejudice the interests of its policyholders. [Testimony of Ronald J. Pastuch; Testimony of Peter G. McPartland.] There are no policyholders of Unigard Pacific and UIC is a financially stable insurance corporation with an A rating from A.M. Best. [Declaration of Peter G. McPartland.]

14. UIC has no plans or proposals to liquidate UIC, sell its assets, consolidate or merge it with any person, or structure, or management, which are unfair and unreasonable to policyholders of UIC or not in the public interest. [Testimony of Peter G. McPartland.] Unigard Pacific has no policyholders to be affected. [Declaration of Peter G. McPartland.]

15. The competence, experience, and integrity of those persons who would control the operations of UIC are not such that it would not be in the interest of policyholders of UIC or of the public to permit this proposed merger. [Testimony of Ronald J. Pastuch; Testimony of Peter G. McPartland.] The individuals currently serving as officers of UIC will remain in those positions after the proposed merger; there will be no change in the management structure of UIC as a result of this proposed merger. [Declaration of Peter G. McPartland.]

16. This proposed merger is not likely to be hazardous or prejudicial to the insurance-buying public. [Testimony of Ronald J. Pastuch; Testimony of Peter G. McPartland.]

17. The sole witness for the Commissioner was Ronald J. Pastuch, Holding Company Manager in the Commissioner's Company Supervision Division. Mr. Pastuch presented his testimony in a detailed and credible manner and exhibited no apparent biases.

18. Jennifer J. Vernon, Vice President, General Counsel and Corporate Secretary for both UIC and Unigard Pacific, appeared as a witness for both companies. Ms. Vernon presented her testimony in a detailed and credible manner and exhibited no apparent biases.

19. Peter G. McPartland, Chief Operating Officer of UIC and Unigard Pacific appeared as a witness for both companies. Mr. McPartland presented his testimony in a detailed and credible manner and exhibited no apparent biases.

20. Based upon the above Findings of Fact, it is here found that the application of UIC for approval of its proposed merger with Unigard Pacific is reasonable and should be approved.

### CONCLUSIONS OF LAW

1. The Proposed Plan of Merger was submitted to the Commissioner in advance of the merger, in compliance with RCW 48.31B.015(1) and (2).

2. Reasonable notice of this proposed merger, as required by the Commissioner, was given and no reasonable objections were received by UIC, Unigard Pacific, the Commissioner, or the undersigned.

3. Pursuant to RCW 48.31B.015(4), the Insurance Commissioner shall approve a merger involving a domestic insurer unless, after a hearing thereon, it is found: 1) that after the change of control, the domestic insurer would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed; 2) that the effect of the acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein; 3) that the financial condition of an acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interests of its policyholders; 4) that the plans or proposals that the acquiring party has to liquidate the insurer, sell its assets, consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders

of the insurer and not in the public interest; 5) that the competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the acquisition or control; or, 6) that the acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

4. After consummation of this proposed merger, UIC will be able to satisfy the requirements for its license to transact insurance business of the state of Washington in the lines of insurance for which it is presently licensed, as contemplated by RCW 48.31B.015(4)(a)(i).

5. The effect of the proposed merger would not be to lessen competition in insurance in the state of Washington or tend to create a monopoly therein, as contemplated by RCW 48.31B.015(4)(a)(ii).

6. The financial condition of UIC is not such as might jeopardize its stability as a result of this proposed merger, or prejudice the interests of its policyholders, as contemplated by RCW 48.31B.015(4)(a)(iii).

7. The plans or proposals that UIC has to liquidate Unigard Pacific, sell its assets, consolidate or merge it with any person, or to make any other material changes in its business or corporate structure or management, are not unfair and unreasonable to policyholders of UIC and are not against the public interest, as contemplated by RCW 48.31B.015(4)(a)(iv).

8. The competence, experience, and integrity of those persons who would control the operations of UIC are not such that it would not be in the interest of policyholders of UIC or of the public to permit this proposed merger, as contemplated by RCW 48.31B.015(4)(a)(v).

9. This proposed merger is not likely to be hazardous or prejudicial to the insurance-buying public, as contemplated by RCW 48.31B.015(4)(a)(vi).

10. The requirements of the Insurance Code of the state of Washington, and specifically Chapter 48.31 RCW governing approval of mergers, have been met. Pursuant to Title 48 RCW, Title 34 RCW, and applicable regulations, approval of this proposed merger should be granted.

### **ORDER**

On the basis of the foregoing Findings of Fact and Conclusions of Law, to the effect 1) the Proposed Plan of Merger was submitted to the Commissioner in advance of the merger; 2) reasonable notice of this proposed merger, as required by the Commissioner, has been given to the public and no reasonable objection exists; 3) after consummation of this proposed merger, UIC will be able to satisfy the requirements for its license to transact insurance business of the state of Washington in the lines of insurance for which it is presently licensed; 4) the effect of the proposed merger would not be to lessen competition in insurance in the state of Washington or tend to create a monopoly therein; 5) the financial condition of UIC is not such as might jeopardize its stability as a result of this proposed merger, or prejudice the interests of its policyholders; 6) the plans or proposals that UIC has to liquidate Unigard Pacific, sell its assets,

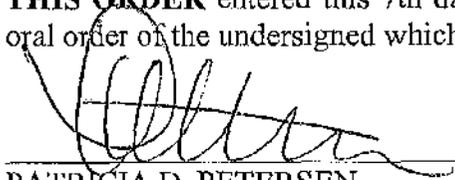
consolidate or merge it with any person, or to make any other material changes in its business or corporate structure or management, are not unfair and unreasonable to policyholders of UIC and are not against the public interest; 7) the competence, experience, and integrity of those persons who would control the operations of UIC are not such that it would not be in the interest of policyholders of UIC or of the public to permit this proposed merger; 8) this proposed merger is not likely to be hazardous or prejudicial to the insurance-buying public; 9) the requirements of the Insurance Code of the state of Washington, and specifically Chapter 48.31 RCW governing approval of mergers, have been met; and that 10) pursuant to Title 48 RCW, Title 34 RCW, and applicable regulations, approval of this proposed merger should be granted,

**IT IS HEREBY ORDERED** that the application of Unigard Insurance Company for the Commissioner's approval of the proposed merger of Unigard Pacific Insurance Company with and into Unigard Insurance Company is hereby **APPROVED**. On December 12, 2007, at the conclusion of the hearing in this matter, the undersigned orally ordered that the application was approved and such order approving this proposed transaction was effective as of December 12, 2007.

**IT IS FURTHER ORDERED** that the effective date of the proposed merger shall be 11:59 p.m. on December 31, 2007.

**THIS ORDER** is entered pursuant to RCW 48.04.010, Chapter 48.31 RCW, Title 34 RCW, and WAC 10-08-210.

**THIS ORDER** entered this 7th day of January, 2008, at Tumwater, Washington, confirms the oral order of the undersigned which became effective on December 12, 2007.

  
\_\_\_\_\_  
PATRICIA D. PETERSEN  
Presiding Officer