



OFFICE OF  
INSURANCE COMMISSIONER

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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF WASHINGTON

<b>In the Matter of the Proposed Merger of:</b>	)	
	)	<b>Docket No. G11-0161</b>
<b>PEMCO INSURANCE COMPANY,</b>	)	
	)	<b>AMENDED FINDINGS OF FACT,</b>
<b>A Washington Domestic Stock</b>	)	<b>CONCLUSIONS OF LAW AND FINAL</b>
<b>Insurance Company,</b>	)	<b>ORDER APPROVING PROPOSED</b>
	)	<b>MERGER</b>
<b>with and into</b>	)	
	)	
<b>PEMCO MUTUAL INSURANCE</b>	)	
<b>COMPANY,</b>	)	
<b>A Washington Domestic Mutual</b>	)	
<b>Insurance Company,</b>	)	
	)	
<b>Applicants.</b>	)	

TO: PEMCO Mutual Insurance Company  
PEMCO Insurance Company  
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COPY TO: Mike Kreidler, Insurance Commissioner  
Michael G. Watson, Chief Deputy Insurance Commissioner  
James T. Odiorne, Deputy Commissioner, Company Supervision Division  
Carol Sureau, Deputy Commissioner, Legal Affairs Division  
Robin Aronson, Staff Attorney, Legal Affairs Division  
Ronald Pastuch, Holding Company Manager, Company Supervision  
Office of the Insurance Commissioner  
PO Box 40255, Olympia, Washington 98504-0255

**The sole purpose of this Amended Findings of Fact, Conclusions of Law and Final Order is to clarify Finding of Fact No. 5 only as indicated by the strikethrough below. In all other respects, this document remains as originally written and entered on August 26, 2011.**

### **NATURE OF PROCEEDING**

On May 16, 2011, PEMCO Mutual Insurance Company and PEMCO Insurance Company, the Applicants herein, jointly applied to the Washington State Insurance Commissioner for approval of their proposed merger of PEMCO Insurance Company with and into PEMCO Mutual Insurance Company. Specifically, in this proposed transaction, PEMCO Mutual Insurance Company and PEMCO Insurance Company would merge, and PEMCO Mutual Insurance Company would emerge as the surviving entity, would assume all contractual obligations, liabilities, rights and privileges of PEMCO Insurance Company, and would be substituted for PEMCO Insurance Company in any proceeding against PEMCO Insurance Company since PEMCO Insurance Company would no longer exist after the merger is consummated. On June 23, 2011, the Insurance Commissioner transferred this matter to the undersigned with the request that she review this matter, conduct the proceeding herein, and enter a final decision either approving or disapproving this plan of merger. After proper notice given to the public, a hearing on this matter was convened on July 21, 2011. The Applicants request that should approval be granted, the effective date of said approval be October 1, 2011.

### **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. On May 16, 2011, PEMCO Mutual Insurance Company ("PMIC") and PEMCO Insurance Company ("PIC"), the Applicants herein ("Applicants") jointly applied to the Washington State Insurance Commissioner ("OIC") for approval of their proposed merger of PIC with and into PMIC, together with the relevant Agreement and Plan of Merger [Attachment

FINAL ORDER APPROVING MERGER

No. G11-0161

Page 3

A]; a pre- and post-merger diagram of the PEMCO organization [Attachment B]; a certified copy of the PMIC and PIC boards' consent approving the proposed transaction [Attachment C]; affidavits of PMIC and PIC pursuant to RCW 48.31.010(1)(c) [Attachment D]. Subsequently, on July 15, 2011, the Applicants filed an unsigned copy of the Articles of Merger to be filed with the Washington Secretary of State [Attachment E]; the 2010 Annual Statement of PMIC [Attachment F]; the 2010 Annual Statement of PIC [Attachment G]; and the 2010 Combined Annual Statement of PMIC and PIC [Attachment H]. [Ex. 1, Request for Approval of Proposed Merger dated May 15, 2011.] Copies of these documents, together with all correspondence which has been filed herein and the Notice of Hearing entered by the undersigned on July 6, 2011, has been considered by the undersigned in making the final decision herein, are included in the hearing file, are by this reference incorporated herein, and can be found on-line at [http://www.insurance.wa.gov/orders/hearings\\_proceedings6.shtml](http://www.insurance.wa.gov/orders/hearings_proceedings6.shtml).

3. On June 10, 2011, the OIC posted a notice on the OIC's website concerning this request for approval of the proposed merger of PIC with and into PMIC and information about the OIC's review process. On June 23, the OIC requested that the undersigned conduct an adjudicative proceeding to hear and determine whether this proposed merger should be approved. On July 15, 2011, PMIC and PIC filed an amendment to their application, with the proposed Articles of Merger, PMIC 2010 Annual Statement, and PIC 2010 Annual Statement, and 2010 Combined Annual Statement of PMIC and PIC. Since PMIC and PIC are insurers engaged and licensed in the property and casualty insurance business and PMIC directly controls PIC, the OIC recommended to the undersigned that RCW 48.31.010 should govern this proceeding.

4. PEMCO Mutual Insurance Company ("PMIC") is a Washington domiciled mutual insurance corporation, with its statutory home office located in Seattle, Washington. PMIC was duly organized and incorporated under the laws of the State of Washington and on July 1, 1958 received its Certificate of Authority (No. 603), NAIC Company Code 24341, from the Washington State Insurance Commissioner (OIC) to conduct property, marine and transportation, vehicle, general casualty, and surety insurance in the State of Washington. PMIC is authorized to conduct business in Washington, Oregon and Idaho although it does not currently write insurance in Idaho. As a mutual insurance company, PMIC is owned by its member policyholders. PMIC is the sole owner of a number of affiliated companies, including PIC, and also including PEMCO Life Insurance Company, PEMCO Insurance Agency, and PEMCO Corporation. PEMCO Corporation is the sole owner of PCCS, Inc. As of March 31, 2011, the quarterly financial statements on file with the OIC identify PMIC's assets at \$535,501,630, liabilities at \$273,347,376, and surplus as regards policyholders at \$244,073,106. PMIC has a financial strength rating from A.M. Best of "A-." [Ex. 1, Request for Approval of Proposed Merger; Testimony of Steven A. Ricco, Vice President and Chief Financial Officer of PMIC and PIC; Declaration of Ricco.]

5. PEMCO Insurance Company ("PIC") is a Washington domiciled stock insurance corporation, with its statutory home office located in Seattle, Washington. PIC was duly organized and incorporated under the laws of the State of Washington, and on August 22, 1972, received its Certificate of Authority (No. 923), NAIC Company Code 18805, from the OIC to conduct property, vehicle, general casualty, and surety insurance business in the State of

FINAL ORDER APPROVING MERGER

No. G11-0161

Page 4

Washington, and since its formation it has focused on providing personal lines automobile insurance to those working in the field of education. PIC is an authorized insurance corporation in Washington and Oregon although it is leaving Oregon. PIC has 200,000 shares of authorized common stock, with par value of \$10, of which 100,000 shares are issued and outstanding, all in the name of PMIC. PIC has no preferred stock authorized, issued, or outstanding. As of March 31, 2011, the quarterly financial statements on file with the OIC identify PIC's assets at \$137,650,493, liabilities at \$87,806,539, and surplus as regards policyholders as \$49,802,268. PIC has a financial strength rating from A.M. Best of "A-." [Ex. 1, Request for Approval; Testimony of Ricco; Declaration of Ricco.]

6. PMIC owns all of the issued and outstanding stock of PIC. In addition, at this time, PIC has no employees of its own. PMIC's staff provides the human resources for PIC to sell, service, and otherwise support the policies that PIC issues to Washington insurance consumers. Further, PMIC and PIC already share the same directorates, officers, and management. [Ex. 1, Request for Approval; Testimony of Ricco; Declaration of Ricco.]

7. PMIC and PIC both offer automobile insurance to Washington policyholders. The OIC has recently given PMIC regulatory approval to offer the same discount rates to those working in the field of education as PIC has offered. PIC policyholders will become PMIC policyholders without change in premium, rate or coverages as they are currently, and some 76% of PIC automobile policyholders are already PMIC policyholders. The Applicants anticipate that the primary financial impact would be improving cost savings to PMIC by eliminating duplicate corporate, regulatory and other overlapping efforts and expenses that ultimately impact PMIC as the sole owner of PIC. There is no likely adverse financial impact. The Applicants anticipate that this proposed merger will serve the policyholders of each company by supporting the same high service standards and insurance protections that exist today while allowing them to be delivered in a simpler and more cost efficient manner.

8. Under the terms of this proposed merger, at the effective time of this proposed merger, PIC will cease to exist, and all of the outstanding stock certificates of PIC will be canceled without consideration. PMIC will assume all of PIC's legal liabilities and obligations. PMIC will continue as a Washington domestic mutual insurance company, and PIC's corporate identity and existence, its property and debts and other interest will transfer to and become vested in PMIC. Since the boards of directors, officers, and managers are the same for both companies, the proposed merger will not result in a change in leadership, and the Articles of Incorporation and Bylaws of PMIC will not change as a result of the proposed merger. [Ex. 1, Request for Approval; Testimony of Ricco; Declaration of Ricco.] Further, as of the effective time of the proposed merger, PMIC, as the surviving corporation, would assume all of PIC's legal liabilities and obligations to PIC's policyholders and others, and all of PIC's rights, as the surviving corporation. [Ex. 1, Request for Approval; Testimony of Ricco; Declaration of Ricco.]

9. There are no plans or proposals to liquidate, sell PMIC assets, consolidate or merge it into any person, or structure, or management, which are unfair and unreasonable to policyholders of PMIC or not in the public interest either before or after the proposed merger. [Ex. 1, Request for Approval; Testimony of Ricco; Declaration of Ricco.]

FINAL ORDER APPROVING MERGER

No. G11-0161

Page 5

10. Together, PMIC and PIC have approximately a 5.9% share of the personal lines automobile market in Washington. The proposed merger of PIC and PMIC will have no negative impact on competition in the Washington insurance market. [Ex. 1, Request for Approval; Testimony of Ricco; Declaration of Ricco.]

11. No director, officer, or member of either PMIC or PIC, or any other person, will receive any fee, commission or other compensation, or other valuable consideration whatsoever, except as expressly provided by the Plan of Merger, for in any manner promoting or assisting in the proposed merger. [Testimony of Ricco; Declaration of Ricco.]

12. PMIC owns 100% of the outstanding shares of each class of PIC, its subsidiary corporation. As such, neither PMIC nor PIC was required to obtain the approval of PMIC's membership or PIC's sole shareholder, which is PMIC itself. Further, an applicant's articles of merger are to incorporate the plan of merger and a statement whether the merger was duly approved by the shareholders of each corporation: PMIC and PIC submitted a copy of their proposed Articles of Merger, correctly stating in section 2 of those Articles that since PIC is a wholly-owned subsidiary of PMIC and meets the exception for shareholder approval no vote was required by either PMIC membership or PIC as sole shareholder.

13. This proposed merger was approved unanimously by the directors of both PMIC and PIC during their board meetings held March 24, 2011, and an Agreement and Plan of Merger was authorized and approved substantially in the form filed with the OIC in their Request for Approval. [Ex. 1, Request for Approval; Testimony of Ricco; Declaration of Ricco.] Further, after the proposed merger is consummated, PMIC will continue to be able to satisfy the requirements for its certificate of authority to transact insurance business in the state of Washington in the lines of insurance for which it is presently licensed. [Testimony of Ronald J. Pastuch; Declaration of Pastuch.]

14. The OIC required that a detailed notice of the proposed merger be given to the public via the internet (on the OIC's website). Accordingly, on July 11, 2011, and continuing through the date of the hearing, the OIC posted the above-referenced Notice of Hearing and an announcement on the OIC's website concerning the proposed merger informing the public of the July 21, 2011, hearing and the nature of the hearing. The OIC also provided information for the public regarding the PIC merger and the OIC process for evaluating that acquisition. In addition, the OIC published all documents referenced immediately above, commencing on July 11, 2011, and continuing to the date of the hearing, which documents were linked to the OIC's Notice and announcement. [Testimony of Ronald J. Pastuch, Holding Company Manager; Declaration of Ronald J. Pastuch.] Based on this evidence, it is here found that this notice constitutes adequate notice as required by the OIC.

15. In the above-referenced Notice of Hearing, interested parties were advised that any individual or entity may submit comments and questions on, or objections to, this proposed merger, and that they were invited to appear and participate in the hearing as well, and that such comments and objections would be considered by the undersigned prior to her making her final

FINAL ORDER APPROVING MERGER

No. G11-0161

Page 6

decision. Said comments, objections or requests to participate were to be submitted to Shellie Savage, assistant to the undersigned, by specified fax, U.S. Mail, or personal delivery addresses by 5:00 p.m., PST, on July 19, 2011. No comments, objections, or questions of any kind were received by the undersigned. Additionally, no objections were received by PMIC or PIC. [Testimony of Ricco; Declaration of Ricco.] Finally, no objections were received by the OIC or any of the Commissioner's 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.

16. Based upon the facts found above, the evidence presented by PMIC, PIC and the OIC, and a review of the entire hearing file, it is here found that this proposed merger is fair, equitable, consistent with law, and, as above, no reasonable objection exists.

17. The sole witness for the OIC 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. Steven A. Ricco was the sole witness for both PMIC and PIC. Mr. Ricco is Vice President and Chief Financial Officer of both companies. He is also Vice President and Chief Financial Officer of PEMCO Corporation and PCCS, Inc. He also serves as a director on the boards of the PMIC affiliates. He is also the Chief Financial Officer of School Employees Credit Union of Washington, an unofficially allied company of PMIC that shares some common management. [Testimony of Ricco.] Mr. Ricco presented his testimony in a detailed and credible manner and exhibited no apparent biases.

19. Based upon the above Findings of Fact, it is here found that the application of PMIC and PIC for approval of their proposed merger of PIC with and into PMIC is reasonable and should be approved.

**CONCLUSIONS OF LAW**

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. This Order is entered pursuant to Title 48 RCW, Title 34 RCW and regulations applicable thereto. The undersigned was properly appointed to conduct this adjudicative proceeding and to make the final decision herein, by designation of authority from the Insurance Commissioner.

2. RCW 48.31B.015(5) exempts applicants for approval of proposed mergers from the requirements of RCW 48.31B.015, including the requirement that a Form A be filed, if the proposed merger is subject to the requirements of RCW 48.31.010 and if the proposed merger has not been made or entered into for the purpose of and does not have the effect of changing or influencing the control of a domestic insurer. In the proposed merger at issue herein, as found above, PMIC and PIC are both insurers engaged and licensed in the property and casualty

FINAL ORDER APPROVING MERGER

No. G11-0161

Page 7

insurance business and PMIC already directly controls PIC. Therefore, pursuant to RCW 48.31B.015(5), the approval of this proposed merger is not subject to the requirements of RCW

48.31B.015 which requires that a Form A be filed. This proposed merger is instead subject to the provisions of 48.31.010.

3. Pursuant to RCW 48.31.010, a domestic insurer may merge with another insurer under specific conditions, set forth in the conclusions below.

4. As found above, the Applicants herein jointly submitted their request for approval, Plan of Merger and other relevant documents specified above, to the OIC on May 16, 2011, in compliance with the requirement of RCW 48.31.010(1)(a).

5. As found above, this proposed merger is fair and equitable to Washington policyholders, PMIC, PIC, their affiliates and to the general public, as required by RCW 48.31.010(1)(b). Among the issues considered in making this Conclusion, as detailed and found above: 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; the financial condition of PMIC and PIC are not such as might jeopardize the stability of either company as a result of this proposed merger, or prejudice the interests of its policyholders; as of the effective date of the proposed merger, PMIC will assume all liabilities and obligations of PIC including those owed to PIC's policyholders; PMIC has no plans or proposals to liquidate or 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 which are unfair or unreasonable to policyholders of PMIC or PIC or are against the public interest; given the nature of the current relationship between PMIC and PIC there will be no change in management of PIC; and it is anticipated that this merger will serve to enhance the operations of both companies.

6. As found in detail above, adequate notice as required by the OIC was given to the public and no reasonable objection exists, as required by RCW 48.31.010(1)(b).

7. The proposed merger is consistent with, and meets the requirements of applicable law, as required by RCW 48.31.010(1)(b). This is supported by the terms and conditions of the Agreement and Plan of Merger that has been filed as part of the merger application and duly reviewed, authorized, and approved by the PMIC and PIC boards. Further, the Applicants meet the exception for shareholder approval otherwise required by RCW 48.31.010(1)(d). This is because, as found above, while PMIC is a domestic mutual insurer as contemplated by RCW 48.31.010(1)(d), currently PMIC owns 100% of the outstanding shares of each class of PIC, its subsidiary corporation, and therefore neither PMIC nor PIC were required to obtain the approval of PMIC's membership or PIC's sole shareholder, which is PMIC itself. PMIC and PIC submitted a copy of their proposed Articles of Merger, correctly stating in section 2 of those Articles that since PIC is a wholly-owned subsidiary of PMIC and meets the exception for shareholder approval no vote was required by either PMIC membership or PIC as sole shareholder.

FINAL ORDER APPROVING MERGER

No. G11-0161

Page 8

8. Further, as found above, after the proposed merger is consummated, PMIC will continue to be able to satisfy the requirements for its certificate of authority to transact insurance business in the state of Washington in the lines of insurance for which it is presently licensed.

9. This proposed merger shall in other respects be governed by the general laws of this state relating to business corporations.

10. As found above, no director, officer, member, or subscriber of any insurer, except as is expressly provided by the plan of merger, has or shall receive any fee, commission, other compensation or valuable consideration whatsoever, for in any manner aiding, promoting or assisting in the merger, as required by RCW 48.31.010(1)(c).

11. 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 that 1) the proposed plan of merger was submitted to the Commissioner in advance of the merger; 2) a hearing has been properly convened prior to considering and making a final decision regarding the Applicants' request for approval of this proposed merger; 3) proper and adequate notice of this proposed merger, as required by the Commissioner, has been given to the public and no reasonable objection exists; 4) this proposed merger is fair, equitable, and consistent with law; 5) 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 6) 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 PEMCO Mutual Insurance Company and PEMCO Insurance Company for approval of the proposed merger of PEMCO Insurance Company with and into PEMCO Mutual Insurance Company is hereby **APPROVED effective October 1, 2011**. On July 21, 2011, on the record at the conclusion of the hearing, the undersigned orally ordered that the Applicants' request for approval of their proposed merger was granted effective October 1, 2011. This written Order confirms that oral order.

**IT IS FURTHER ORDERED** that the effective date of the proposed merger shall be October 1, 2011.

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

FINAL ORDER APPROVING MERGER

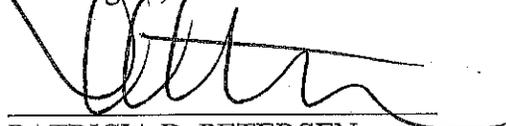
No. G11-0161

Page 9

**THIS ORDER** entered this 26<sup>th</sup> day of August, 2011, at Tumwater, Washington, and confirms the oral order entered on July 21, 2011.

  
PATRICIA D. PETERSEN  
Presiding Officer

**THIS AMENDED ORDER** entered this 29<sup>th</sup> day of August, 2011, at Tumwater, Washington, and confirms the oral order entered on July 21, 2011.

  
PATRICIA D. PETERSEN  
Presiding Officer

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 through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: PEMCO Mutual Insurance Company; PEMCO Insurance Company; William M. Clumpner; Mike Kreidler, Insurance Commissioner; Michael G. Watson, Chief Deputy Insurance Commissioner; James T. Odiorne, Deputy Commissioner, Company Supervision Division; Carol Sureau, Deputy Commissioner, Legal Affairs Division; and Robin Aronson, Staff Attorney, Legal Affairs Division.

DATED this 29<sup>th</sup> day of August, 2011.

  
Kelly A. Cairns