

STATE OF WASHINGTON

MIKE KREIDLER
STATE INSURANCE COMMISSIONER
DECLARATION OF MAILING



Phone: (360) 725-7000
www.insurance.wa.gov

FILED

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

DATED this 29th day of August 2008 at Tumwater, Washington.

Signed: W. Galloway

OFFICE OF
INSURANCE COMMISSIONER

HEARINGS UNIT
Fax: (360) 664-2782

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Patricia D. Petersen
Chief Hearing Officer
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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of the Proposed Acquisition
of Control of:

SAFECO INSURANCE COMPANY OF AMERICA, GENERAL INSURANCE COMPANY OF AMERICA, FIRST NATIONAL INSURANCE COMPANY OF AMERICA, and SAFECO SURPLUS LINES INSURANCE COMPANY, Subsidiaries of SAFECO CORPORATION, a Washington Corporation,

by

LIBERTY MUTUAL HOLDING COMPANY, INC., LMHC MASSACHUSETTS HOLDINGS, INC., LIBERTY MUTUAL GROUP, INC., LIBERTY MUTUAL INSURANCE COMPANY, LIBERTY INSURANCE HOLDINGS, INC., and LIH US P&C CORPORATION.

NO. G08-0084

**ORDER SUPPLEMENTING
NOTICE OF HEARING:
ADDITIONAL INFORMATION
REQUIRED FROM
APPLICANTS/PROPOSED
PURCHASERS**

TO: Richard P. Quinlan
Sr. Vice President & Deputy General Counsel for Liberty Mutual
175 Berkeley Street
Boston, Massachusetts 02117-0140



Melvin N. Sorensen, Esquire
Carney Badley Spellman P.S.
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DeAnn F. Work
Safeco Insurance Companies
Sr. Associate General Counsel
Safeco Plaza
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COPY TO: Mike Kreidler, Insurance Commissioner
Vernon Stoner, Chief Deputy Insurance Commissioner
James T. Odiorne, Deputy Commissioner, Company Supervision Div.
Ronald Pastuch, Holding Manager, Company Supervision Div.
Carol Sureau, Deputy Commissioner, Legal Affairs Division
Charles D. Brown, Sr. Staff Attorney, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Linda Dalton, Sr. Assistant Attorney General
Office of the Attorney General
PO Box 40100
Olympia, WA 98504-0100

AND TO: Christina Beusch, Assistant Attorney General
Office of the Attorney General
Attorney for the Insurance Commissioner's Staff
PO Box 40100
Olympia, WA 98504-0100

A Notice of Hearing has been issued scheduling the hearing in this matter to commence on September 10, 2008. Following review of the documents filed to date, the undersigned has determined that additional material information, which was not included in the Form A as required, is necessary. Complete, detailed information responsive to the questions enumerated below must be provided by close of business on Wednesday, September 3, 2008. If it is not received by this date, the hearing may need to be continued to a later date in order to allow for receipt of this information as well as time for its review.

1. Agreement and Plan of Merger [Acquisition]: The subject purchase and sale agreement, filed in Form A, is entitled Agreement and Plan of Merger Dated as of April 23, 2008. It identifies the parties as Liberty Mutual Insurance Company, Big Apple Merger Corporation and Safeco Corporation.

- a. Please identify who is the Big Apple Merger Corporation? Big Apple (elsewhere entitled Merger Sub) is not included in Applicants' detailed summary, in the Form A or included in any organization chart.
- b. What is Big Apple's function, ownership, governance and financing with respect to the proposed acquisition?
- c. What type of corporation is Big Apple?

2. LIH US P&C Corporation: LIH US P&C Corporation is stated to be the proposed direct purchaser of all of the entire Safeco organization. LIH US P&C Corporation is also stated to become the owner of all of the Safeco organization if this transaction is approved. [Form A.] Form A, Amendment 1, 7th page states as follows: *(vi) LIH US. LIH US [P&C Corporation], a Delaware corporation, was acquired by the Liberty Mutual Group in 1999. LIH US is a direct, wholly-owned subsidiary of LIHI [Liberty Insurance Holdings Inc.]. LIH US will be the direct purchaser of Safeco. The only material asset of LIH US is its investment in its subsidiaries.*

a. With respect to the organization charts previously provided, please ensure that complete charts of the pre- and post-acquisition structure of LIH US P&C Corporation are provided.

b. Applicants state that there is no SEC filing required in this matter and that LIH US P&C Corporation has not been audited. Please indicate how RCW 48.31B.015(2)(c) will be complied with if the LIH US P&C Corporation is not audited. RCW 48.31B.015(2)(c) requires that the Form A contain *fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each acquiring party ... and similar unaudited information as of a date not earlier than ninety days before the filing of the statement* [Form A].

c. Please provide by prior written testimony and by oral testimony at hearing how all rights and privileges of the current policyholders of the Safeco domestic insurers and their affiliates will be honored should this transaction be approved.

3. Governance Mechanisms: Please identify the governance mechanisms for each of the following entities:

- a. Big Apple Merger Corporation;
- b. Liberty Mutual Holding Company Inc.;
- c. LMHC Massachusetts Holdings Inc.;
- d. Liberty Mutual Insurance Company;
- e. Liberty Insurance Holdings, Inc.; and
- f. LIH US P&C Corporation

4. Ownership Interests: Please identify for each of the entities outlined in No. 3 above:

- a. Who are the entity owners (specifically);
- b. What shares of ownership does each hold; and
- c. By what means are these ownership interests held?
- d. Please provide the names of all members of Boards of Directors and the Officers.

5. Litigation and Other Legal Action. The Agreement and Plan of Merger dated April 23, 2008, Ex. 1 of Form A, provides significant information upon which the Commissioner relies in review of this proposal. Section 3.15 (p. 13) *Litigation*. states: *There is no action, suit, investigation, claim, complaint, demand, summon, cease and desist letter, subpoena, injunction, notice of violation or other proceeding pending against, or, to the knowledge of the Company [defined therein as Safeco Corporation], threatened in writing against the Company or any of its Subsidiaries, which, if determined or resolved adversely in accordance with the plaintiff's or claimant's demands, would, ... reasonably be expected to have a Company Material Adverse Effect.* Please provide information, including a description of the nature of the proceedings and current cases status, for Case No. 08-2-18681-4 SEA was filed in the King County Superior Court on June 2, 2008 and Case No. 2:08-cv-00940-BAT was filed in the U.S. District Court for the Western District of Washington at Seattle on June 19, 2008, and answered by Safeco Corporation and Liberty Mutual shortly thereafter. In this case naming Safeco Corporation and Liberty Mutual Insurance Company and others as defendants, Gotham Investors, on behalf of itself and all others similarly situated, asserts, briefly, that, *This is a shareholder class action on behalf of plaintiff and other public holders of Safeco Corporation...common stock and against Safeco's directors and Liberty Mutual Insurance Company.... It challenges the sale of Safeco to Liberty Mutual and its wholly owned subsidiary Big Apple Merger Corporation...in a proposed transaction...which protects and advances the interests of Safeco's directors and Liberty Mutual at the expense of Safeco's public shareholders and defendants' efforts to conceal material information from plaintiff and Safeco's other public shareholders in conjunction with the same. Specifically, as further alleged below, a majority of Safeco's directors will receive extensive personal compensation as a result of the Sale Agreement – compensation that they would not otherwise receive at this time absent the Sale Agreement. This conflict of interest caused these directors to be unable to fairly and thoroughly evaluate the Sale Agreement to ensure that they are in the best interest of Safeco and its public shareholders. Additionally, Safeco's directors caused Safeco to file a proxy statement with the SEC on or about May 23, 2008 ... which concealed material information from plaintiff and Safeco's other public shareholders.* Further, please identify how these cases should be viewed in light of the statutory criteria set forth in RCW 48.31B.015?

6. Other Agreements:

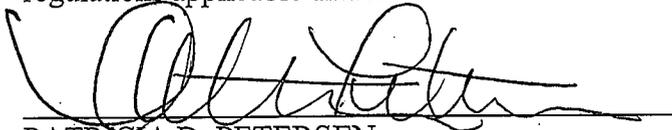
- a. Please provide complete executed copies of all agreements which are in any way, in whole or in part, related to this proposed acquisition and which provide compensation to Safeco officers and directors, Liberty Mutual officers and directors and any other individual or entity.
- b. Please provide complete executed copies of all agreements which concern other matters aside from compensation which in any way relate to this proposed acquisition.
- c. Please detail, whether by written agreement or not, all compensation paid or to be paid to any individual or entity which would result from consummation of this proposed acquisition.

7. Financing: Amendment No. 1 to the Form A filed August 5, 2008, states that the purchase of the Safeco Corporation, including all of its affiliates, is valued at approximately \$6.2 billion which will be paid from cash on hand. Form A further states that, while LIH US is the purchasing corporation which will own the entire Safeco organization, in order to pay the purchase price, *[o]n May 29, 2008, LMGI issued \$1.25 billion of junior subordinated securities (hybrid debt). The [Applicants] intend to contribute the proceeds of such issuance down to LIH US as an investment in a subsidiary. Following such contribution, LMGI and LIH US will have adequate liquidity to fund the entire Proposed Acquisition with cash on hand, including, in part, proceeds from dividends that have been declared by certain of its current affiliates.*

- a. Please identify who these "other current affiliates" are.
- b. Please detail what funds will be paid from LMGI and what funds will be paid by "certain of [LIH US P&C Corporation's] other current affiliates"?
- c. Are LMGI and the "other current affiliates" loaning LIH US P&C Corporation these funds?
- d. What agreements exist for LIH US P&C Corporation to repay these funds to LMGI and the "other current affiliates"? Please furnish copies of these agreements.
- e. What collateral has LIH US P&C Corporation provided to LMGI and its "other current affiliates" related to the funds these entities are providing for payment of the purchase price?
- f. Please state whether, as of September 2, 2008, the dividends used to fund the proposed acquisition have all been approved. If any have not been approved, please state the amount of such dividend(s), the status of approval, when approval is expected, and all other information that is relevant to the undersigned's consideration of this aspect of the proposed acquisition.
- g. Please provide a detailed, precise description of the plan to pay the \$6.2 billion purchase price, including where what amount of funds are coming from, specifically how they are generated and through what hands are they placed from origin until they are actually paid for the proposed purchase of the Safeco organization. If the financing is to come from dividends and if those dividends are to be paid to a mutual corporation prior to payment of the purchase price, how is the mutual allowed to retain these funds without distribution to its members?

8. Index: Please provide an index to the Form A filing, including Amendments.

ENTERED this 29th day of August, 2008 at Tumwater, Washington, pursuant to Title 48 RCW, and particularly RCW 48.04 and RCW 48.31B.015, Title 34 RCW, and regulations applicable thereto.



PATRICIA D. PETERSEN
Presiding Officer