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2017 DEC 29 P 3:53

HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In the Matter of the Proposed
Acquisition of Control of:

Docket No. 17-0369

REtitle INSURANCE COMPANY, A
Washington domiciled title insurer,

DECLARATION OF
RONALD J. PASTUCH

By

A10 CAPITAL LLC, a Delaware
limited liability company.

the Applicant.

Ronald J. Pastuch, under penalty of perjury under the law of the State of
Washington, declares as follows:

1. I am the Holding Company Manager in the Company Supervision
Division of the Washington State Office of the Insurance Commissioner ("Insurance
Commissioner"). I am over the age of eighteen years old and I am competent to testify in
this matter. I make this Declaration based upon my knowledge.

2. I am also a graduate of Pacific Lutheran University, where I earned a
Bachelor of Arts Degree in Business Administration in 1988. I was certified as a CPA
by the Washington Board of Accountancy in 1993, and received my Washington CPA
license in 2003.

3. After graduation, I worked for the Washington State Department of
Veteran Affairs from 1980 to 1987 in accounting and human resource positions. In 1987,
I joined the Insurance Commissioner as an accountant, a position I held until 1991. From

1 1991 to 1993, I served as a field Insurance Examiner with the Insurance Commissioner.
2 From 1993 to 2006, I served as a Financial Analyst in the Insurance Commissioner's
3 Company Supervision Division, a position I held in various levels.

4 4. On February 16, 2006, I was appointed the Holding Company Manager in
5 the Insurance Commissioner's Company Supervision Division. As the Holding
6 Company Manager, my primary duties consist of reviewing and approving holding
7 company transactions between insurers and their affiliates, which include reviewing and
8 recommending the Insurance Commissioner's position on proposed requests for
9 insurance company acquisitions and mergers by outside parties including disclaimers of
10 control.

11 5. On October 2, 2017, A10 Capital LLC ("A10 Capital") filed an
12 application for acquisition of control ("Form A") for the proposed acquisition of REtitle
13 Insurance Company ("REtitle"). A10 Capital also filed a pre-acquisition notification
14 form ("Form E") of REtitle by A10 Capital.

15 6. On October 12, 2017, the Insurance Commissioner notified its Hearings
16 Unit with a demand for hearing with the summary of Forms A & E filings.

17 7. On October 12, 2017, the Insurance Commissioner posted a public notice
18 of filing regarding the proposed acquisition of control on the Insurance Commissioner's
19 website. That public notice included the Case Management Order #17-0369 that
20 included acknowledgement of receipt of Form A and E filings, adjudicative hearing
21 requirements on the Forms A and E, standard by the Forms are analyzed, and notice for
22 intervenors in the adjudicative proceeding, and standard governing confidentiality,
23 sealing, and redaction of records, where to file service of pleadings and other papers, and
24 instructions for requests of accommodation for persons needing assistance during the
25 proceeding.

26 8. On October 25, 2017, the Insurance Commissioner issued its first notices
27 of deficiency and request for information regarding the Forms A and E filings. A10
28 Capital responded to both notices on November 8, 2017, under Addendum No. 1 to
29 Form A and Addendum No. 1 to Form E.

1 9. On November 16, 2017, the Insurance Commissioner issued its second
2 notices of deficiency and request for information regarding the Form A filing. A10
3 Capital responded on November 20, 2017 under Addendum No. 2 to Form A.

4 10. On December 5, 2017, under Case Management Order 17-0369, the
5 presiding officer for the Insurance Commissioner held a telephonic status conference to
6 receive an update to the status of the Insurance Commissioner's review of the Forms A
7 and E filings. The Insurance Commissioner reported in its case status report on
8 December 1, 2017, with the outstanding issues required to the that remain outstanding
9 and issued its third notices of deficiency and request for information regarding the
10 Forms A and E filings, plans to issue data and information requests, and estimated time
11 to prepare written reports regarding the transaction.

12 11. On December 6, 2017, the Insurance Commissioner issued its third
13 notices of deficiency and request for information regarding the Forms A and E filings.
14 A10 Capital responded to both notices on December 11, 2017 under Addendum No. 4 to
15 Form A, and Addendum No. 4 to Form E [this is the second addendum to the Form E].

16 12. I reviewed the Form E application and supporting documentation. My
17 analysis was performed under the criteria and conditions set forth in Order No. 16-0369
18 and RCW 48.31B.020. My analysis is that:

19 a. A10 Capital is a Delaware limited liability company that is not licensed to
20 do business in Washington.

21 b. REtitle is a Washington-domiciled insurance company currently licensed
22 to do business in Washington under Certificate of Authority No. 781 dated January
23 4, 1912.

24 c. A10 Capital is not in the business of writing insurance contracts. REtitle
25 was actively writing title insurance coverages for residents of Mason County,
26 Washington until 1999 year-end. It has been dormant since 2000 through today.

27 d. A10 Capital has fulfilled the requirements of Order No. 16-0369
28 concerning the Form E. A10 Capital concluded that it and its affiliates have zero
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1 (0) market share in any line of insurance previously written by REtitle in the state
2 of Washington, there will be no increase in market share in any Washington market
3 as an immediate result of the proposed acquisition. A10 Capital also concluded
4 that the proposed acquisition, if consummated, would not substantially lessen
5 competition or create a monopoly in the state of Washington in violation of the
6 competitive standards set forth in RCW 48.31B.020.
7

8 e. We reviewed the Form A and E applications and their attachments as
9 evidence and supporting documentation of their conclusions. We agree with the
10 Applicant's conclusions that the proposed acquisition would have no market share
11 impact and would not lessen competition, or create a monopoly in this state.

12 13. I also reviewed the Form A application with its supplemental
13 documentation and analyzed these materials. My analysis was performed under the
14 criteria set forth in RCW 48.31B.015(4). My analysis is that:
15

16 a. After the change of control, the domestic insurer would not be able to satisfy the
17 requirements for the issuance of a certificate of authority to write its current lines
18 of business in Washington. As stated previously, REtitle is presently licensed to
19 write title insurance coverages. According to RCW 48.05.340, REtitle's minimum
20 required capital and surplus as of the date of the Declaration is \$4.0 million.
21

22
23 According to its publicly available unaudited financial statement as of September
24 30, 2017, filed with the OIC, REtitle reportedly has \$713 thousand in admitted
25 assets and \$690 thousand in net capital and surplus. A domestic insurer, except a
26 title insurer, holding a certificate of authority to transact insurance in this state
27 immediately prior to June 9, 1994, may continue to be authorized to transact the
28 same kinds of insurance as long as it is otherwise qualified for such an authority
29 and thereafter maintains unimpaired the amount of paid-in capital stock, if a stock
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1 insurer, or basic surplus, if a mutual or reciprocal insurer, and special or additional
2 surplus as required of it under laws in force immediately prior to June 9, 1994. A
3 domestic insurer that is acquired or merged must, immediately after completion of
4 an acquisition or merger, meet the capital and surplus requirements of subsection
5 (1) of this section. A domestic insurer, upon attaining the capital and surplus
6 requirements of subsection (1) of this section, may not return to the capital and
7 surplus requirements existing before June 9, 1994.
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10 Under this requirement, REtitle's minimum capital and surplus increased to \$2.0
11 million in capital stock and \$2.0 million in basic surplus for a total of \$4.0 million.
12 A10 Capital has made a commitment to infuse capital to the required minimum
13 capital and surplus level. A10 Capital will need to increase REtitle's minimum
14 capital stock to comply with that statute by increasing the par value of REtitle's
15 10,000 outstanding and issued common shares to \$2.0 million within 28 days after
16 the effective date of the acquisition.
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19 b. The effect of the proposed acquisition of control would not lessen competition
20 in this state or tend to create a monopoly therein. I reviewed a market analysis
21 report of the proposed acquisition and found no competitive standard issues. There
22 appears to be no evidence that competition in Washington would be adversely
23 affected, and the combined effect on the market would not create a concentration
24 of current policyholders. Therefore, there is no evidence that this transaction
25 would violate the competitive standards for the Washington insurance-buying
26 market for title insurance coverages.
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1 c. The latest combined financial statements indicates that the parent organization
2 of the applicant (A10 Capital Holdings LLC) has a combined \$1.1 billion in total
3 assets and \$114.2 million in members' equity as of December 31, 2016 (audited),
4 according to generally accepted accounting principles accepted in the U.S.

5 The Applicant, A10 Capital, has \$234.8 million in assets and \$114.2 million in
6 members' equity as of December 31, 2016 (audited); and \$247.2 million and
7 \$112.3 million, in assets and members' equity as of September 30, 2017,
8 (unaudited), respectively according to generally accepted accounting principles
9 accepted in the U.S.

10 Therefore, the financial condition of the Applicant and its parent organization
11 would not jeopardize the financial stability as a domestic insurer or prejudice the
12 interest of its policyholders.
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16 d. We found no evidence that the Applicant or its parent organization plans to sell
17 the REtitle's assets, consolidate, or merge it with any other person. However, A10
18 Capital's plans included the redomestication and name change of the company.
19 Those transactions would go through a different proceeding under separate
20 applications. We were not able to obtain a viable business plan for REtitle from
21 the Applicant. The information provided was vague and lack clarity as how REtitle
22 will restart its operations and where it plans to operate in the state of Washington.
23 The 3-year projections were not conclusive how the amount of revenue and
24 expenses would be generated in this state. Its present owner will continue as
25 president of REtitle but a new president was not listed with the other proposed
26 directors or officers of the insurer.
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1 e. We verified the same persons who were listed in the Form A application are
2 currently the directors and/or officers of A10 Capital. An unrelated third-party
3 verification firm provided reports that did detect some questions about some of the
4 directors or officers' background information. However, these individuals
5 explained the circumstances and mitigated the questionable events in their
6 background checks. Further, these events do not affect the competence,
7 experience, and integrity of these persons. We have further concerns regarding the
8 majority of the proposed directors and officers of REtitle lack the experience of
9 governing and operating an insurance company.
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12 f. Based upon the submitted information, the acquisition may be hazardous or
13 prejudicial to the insurance buying public. Because the Applicant lacks the
14 experience in the insurance industry and uncertainty of how the company will
15 operate going forward, we propose certain conditions under Exhibit "A" to further
16 satisfy the standards under this subsection.
17

18
19 g. Some of the exhibits filed for the record contain personal and sensitive
20 information and also trade secret information that is protected from disclosure
21 under Washington law. As a result, we proposed certain stipulations for the
22 Presiding Officer's consideration to address these concerns under a Joint
23 Submission on Confidentiality Issues between the Insurance Commissioner and
24 A10 Capital.
25

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27 h. We have not heard of any attempt by the Federal Trade Commission or the
28 Washington State Office of the Attorney General to take action against or halt the
29 proposed acquisition as of the date of this declaration.
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1 14. A10 Capital submitted all documents in connection with the proposed
2 acquisition. The documents lack the detailed information expected with a Form A
3 application to meet the statutory requirements for an acquisition in accordance with RCW
4 48.31B.015. Based on the filing, I recommend that the Presiding Officer approve the
5 acquisition of REtitle by A10 Capital with conditions to further satisfy the standards set
6 forth under RCW 48.31B.015.
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8 15. The Office of the Insurance Commissioner has fulfilled the required notice
9 procedures. Notice of this proposed acquisition was given to the public via the Internet
10 (on the Insurance Commissioner's website) initially on October 12, 2017, with Case
11 Management Order 17-0369. We understand that no person file a petition to participate as
12 intervenors in these proceedings on or before November 1, 2017. On December 28, 2017,
13 the OIC posted an electronic notice on the Insurance Commissioner's website concerning
14 the proposed acquisition of the domestic insurer and information about the OIC's hearing
15 process, a true and correct copy of which is attached hereto as Exhibit "B." Such notice
16 included information regarding the hearing, via the Notice of Hearing dated December 6,
17 2017, and announcement posted on the website. We understand that notice will remain
18 posted on the website from the date of this Declaration to the date of the hearing.
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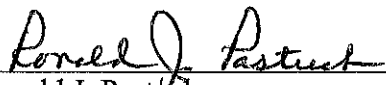
20 16. The Notice of Hearing informs and advises all interested parties that any
21 individual or entity is permitted to submit comments on, or objections to, this proposed
22 acquisition. The Notice of Hearing states that any questions or concerns should be directed
23 to Dorothy Seabourne-Taylor, Paralegal to the Presiding Officer.
24

25 17. As of the date of this Declaration, I personally have not received any
26 comments, questions, or objections through letter, correspondence, email, or phone, nor
27 am I aware of any comments, questions, or objections having been received by the
28 Presiding Officer, from any interested parties.
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I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Executed on this 29th day of December, 2017, at Tumwater, Washington.



Ronald J. Pastuch
Holding Company Manager
Company Supervision Division

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OIC Recommendation with Proposed Conditions

In light of the materials submitted by the applicants, we believe the proposed transaction should be approved by the Commissioner. However, the following conditions should be included in any order approving the proposed transaction:

- The submission of amended articles of incorporation of REtitle which satisfies the requirements of RCW 48.05.340, 48.07.070, and 48.08.010.

We recommend that amended articles should address the statutory requirements and should be filed by the company to the OIC within 30 days after Commissioner's approval.

- Depending on the submission and approval of the amended articles addressing the statutory compliance with RCW 48.05.340, 48.07.070, and 48.08.010 and the funding of the capital infusion, the applicant's request for conditional approval under the Form A application be deferred until the applicant and REtitle receives the Commissioner's approval of the amended articles of REtitle and confirmed receipt of the capital funding to REtitle from the applicant.

We recommend the amended articles and confirmation of capital funding subject to Commissioner's approval.

- Because the applicant's future plans including a transfer of corporate office of REtitle to another state and name change of REtitle, the Commissioner request a timetable for the licensing of REtitle to another state or states and possible redomestication to another state subject to the Commissioner's approval.

We recommend that the timetable addressing the future plans of the company should be filed by the company to the OIC within 30 days after Commissioner's approval.

- Because the applicant wishes to expand the footprint of REtitle to other states, the Commissioner requests a report regarding the states that REtitle will be expanding its business and the current financial examination of Retitle is acceptable for its expansion applications for admission.

EXHIBIT A

We noted that some states will accept the current financial statement of an insurer if it is not more than three years from the year of its request for application of admission. In order to determine if resources for the completion of such financial examination will be necessary, we recommend that a report based on the timetable addressing the future expansion plans of the company and report the states' requirement for the most current financial examination within 30 days after Commissioner's approval.

- The applicant provided that the current owner of REtitle will retain the title of president after the acquisition, but unlike the other corporate officer position within the Form A, no name of a prospective person who will assume the president position of REtitle was provided because of the applicant's search for a qualified person. Also the prospective board of directors does not retain experience in the governance or operations of an insurance company.

We recommend that the qualified person who is appointed as director or officer of REtitle should file his or her biographical affidavit and verification report according to WAC 284-07-620 requirements and approval by the Commissioner over the next two years.

- The applicant did not provide a comprehensive 3-year business plan of REtitle with the proforma financial projections.

We recommend a comprehensive business plan of REtitle should be filed by the company to the OIC within 45 days after Commissioner's approval.

- The applicant or company will be required to register the new holding company and its holding company system after the applicant acquires the control of REtitle.

We recommend that a Form B registration statement and Form F Enterprise Risk Report should be filed by the company to the OIC within 15 days after Commissioner's approval.

- The applicant indicated that decisions regarding intercompany agreements have not been made. The OIC will need to approve any intercompany management, service agreements, cost sharing, or consolidated tax sharing arrangements prior to the commencement date of these contracts.

EXHIBIT A

We recommend any intercompany agreements between REtitle and the applicant affiliates are subject to RCW 48.31B.030(1) and subject to OIC prior approval.

In addition to these conditions:

We further recommend that the applicant does not apply to transfer the state of domicile of REtitle outside of Washington if, immediately following the redomestication, a plurality of covered lives reside in Washington of all types of coverage in all jurisdictions from all regulated entities.

This condition should remain in full force and effect until the earlier of: the date on which A10 Capital ceases to maintain a majority of voting power, direct or indirect, over REtitle, as established by the Commissioner's approval authorizing a change of control under RCW 48.31B.015; or the date this condition is terminated with the written consent of the Commissioner.

EXHIBIT B

Rulemaking

N/A

February 2018

Judicial hearings

| 16-0240 DaVita Kidney Care and 16-0239 Cary Ancheta hearing challenging cease and desist orders (PDF, 206 KB) 2-20-18 - stricken

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HEARINGS UNIT
OFFICE OF
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Rulemaking

N/A

January 2018

Judicial hearings

| 17-0369 Hearing re: proposed acquisition of REtitle Insurance Company by A10 Capital LLC (PDF, 215 KB) 1-11-18

| 17-0299 Far East Broadcasting Company, Inc.'s hearing challenging proposed consent order levying fine (PDF, 129 KB) 1-17-18 - stricken

Rulemaking

N/A

SEE ALSO

- | Administrative hearings
- | Proposed rules
- | Agency stakeholder meetings

NEED MORE HELP?

| Call 800-562-6900

| **Public notices**

EXHIBIT B

			<p><u>Order Consolidating Cases, Notice of Hearing and Scheduling Order (166KB)</u></p> <p><u>Letter from OIC requesting prehearing conference (88KB)</u></p> <p><u>Order on Motion to Stay Proceedings (73KB)</u></p> <p><u>BMS Reply on Motion to Stay (118KB)</u></p> <p><u>OIC Response to Motion to Stay (129KB)</u></p> <p><u>BMS Motion to Stay Proceedings (563KB)</u></p> <p><u>Appointment letter (38KB); Delegation of Authority (65KB)</u></p> <p><u>Amended Notice of Request for Hearing (147KB)</u></p> <p><u>Receipt of Request for Hearing (81KB)</u></p> <p><u>OIC Notice of Request for Hearing (154KB)</u></p>
<p>Response Indemnity Co., w/into National Merit Insurance Company G06-56</p>	<p>Merger</p>	<p>Merger Approved</p>	<p><u>Final decision</u></p>
<p>REtitle Insurance Company acquisition by A10 Capital LLC</p>	<p>Form A and Form E Applications for Acquisition of Control</p>	<p>Pending</p>	<p><u>Notice of Hearing (11-6-17) (PDF, 214.90 KB)</u></p> <p><u>A10Capital LLC Brief Addressing Status Conference Matters (12-1-17) (PDF, 287.21 KB)</u></p> <p><u>REtitle Insurance Case Status Report (12-1-17) (PDF, 86.45 KB)</u></p> <p><u>OIC Case Status Report (12-1-17) (PDF, 162.56 KB)</u></p>

EXHIBIT B

			<p><u>REtitle Insurance Company's Petition in Support of Form A (10-26-17) (PDF, 160.32 KB)</u></p> <p><u>Case Management Order (10-12-17) (PDF, 324.69 KB)</u></p> <p><u>Summary of Form E Application (PDF, 59.06 KB)</u></p> <p><u>Summary of Form A Application (PDF, 415.09 KB)</u></p> <p><u>Demand for Hearing (10-12-17) (PDF, 169.65 KB)</u></p>
Rix, Stacie 17-0126	Imposition of Fine	Pending	<p><u>Transmittal to OAH (8-3-17) (PDF, 50.87 KB)</u></p> <p><u>Notice of Receipt of Demand for Hearing (8-3-17) (PDF, 37.60 KB)</u></p> <p><u>OIC Hearing Demand regarding Intent to Impose Fine After Hearing (8-2-17) (PDF, 256.47 KB)</u></p>
RLI Insurance Company G11-0074	Proposed acquisition of Contractors Bonding and Insurance Company	Acquisition approved	<p><u>Final Order</u></p> <p><u>Form A Filing Redacted</u></p> <p><u>Form A</u></p> <p><u>Form D</u></p> <p><u>Earnings Release</u></p> <p><u>Corresp Additional Questions</u></p> <p><u>Corresp Responses from RLI Feb 4 2011</u></p> <p><u>Corresp Responses From RLI</u></p> <p><u>11-Year Review</u></p> <p><u>Acquisition Announcement</u></p> <p><u>Acquisition Proposal</u></p> <p><u>Amendments Minor Proposed</u></p> <p><u>Audit Committee Charter</u></p>