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STATE OF WASHINGTON



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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of the Proposed Plan of)
Reorganization and Merger regarding:)
)
WASHINGTON DENTAL SERVICE)
COMPANY, a Washington Health Care)
Service Contractor.)
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)
)
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No. 13-0115
**FINAL ORDER APPROVING
WASHINGTON DENTAL
SERVICE'S PROPOSED PLAN
OF REORGANIZATION AND
MERGER**

TO: Sean P. Pickard
Director, Government Relations
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COPY TO: Mike Kreidler, Insurance Commissioner
James T. Odiome, Chief Deputy Insurance Commissioner
Ronald J. Pastuch, Holding Company Manager, Company Supervision Div.
Charles Brown, Acting Deputy Commissioner, Legal Affairs Division
Robin Aronson, Staff Attorney, Legal Affairs Division
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P.O. Box 40255
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NATURE OF PROCEEDING

Washington Dental Service (“WDS” or “Applicant”), a Washington non-stock nonprofit corporation, proposes to reorganize its business into a traditional holding company structure. Accordingly, on March 14, 2013, WDS filed an Application with the Office of Insurance Commissioner (“OIC”) for the OIC’s approval of WDS’ plan of reorganization and merger transaction. This proposed transaction includes a proposed reverse merger of WDS with and into an existing subsidiary (WDS Merger Sub) of an existing holding company (DD of Washington), as described in more detail below. On March 26, 2013, the OIC advised WDS that supplemental information was required to be submitted with its Application. In response, on March 28, 2013 WDS provided said supplemental information. On April 3, 2013 the OIC determined that the Application was complete, included the plan of reorganization and merger and all of the other documents and information required to be included therein, and therefore on that date transmitted the plan to the undersigned with the request that the undersigned conduct an adjudicative proceeding and make the final decision either approving or denying approval of WDS’ proposed plan of reorganization and merger.

All documents filed with WDS’s application for approval of this proposed reorganization and merger, and all supplemental documents and information referenced herein, can be found at <http://www.insurance.wa.gov/laws-rules/administrative-hearings/judicial-proceedings/w-z/> or by contacting Kelly Cairns, Paralegal to the undersigned, at the above addresses and telephone number. These documents and materials include, among other documents, 1) Washington Dental Service Reorganization Plan; 2) Amended and Restated Bylaws of Washington Dental Service, WDS Merger Sub and of DD of Washington; 3) Articles of Merger and Plan of Merger for the merger of WDS and WDS Merger Sub; 4) Articles of Amendment to the Articles of Incorporation of Delta Dental of Washington and of DD of Washington; 5) UCAA Corporate Amendments Application for Name Change; 6) Form D filings for the Intercompany Services Agreement and for the Agency Agreement for Paymaster Services; 7) Notice of Distribution and 8) diagrams of the holding company structure. Included also are 9) the Insurance Commissioner’s March 26, 2013 letter requesting further information to supplement the Applicant’s filings and 10) WDS’s letter dated March 28, 2013, transmitting supplemental information. The documents specified above, and others also included in WDS’s filing, and all written communications between WDS and the Insurance Commissioner which were filed in this matter are published at the referenced website and were entered into evidence in this proceeding.

FINDINGS OF FACT

Having considered the presentation of the parties including written and oral evidence presented at the hearing, and the documents on file herein, including the Application for approval of proposed merger and reorganization dated March 14, 2013 and filed with the OIC on the same date, and the exhibits, supplements and amendments thereto, and the entire hearing file, the undersigned Presiding Officer finds as follows:

1. The Washington State Insurance Commissioner has duly and properly appointed the undersigned to conduct the adjudicative proceeding in this matter and to make the final decision herein without communication or input from himself, his staff or any other individuals or entities with knowledge of this proposed transaction. 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. **Identity of Washington Dental Service.** Washington Dental Service (“WDS” or “Applicant”) is a Washington non-stock nonprofit corporation under Chapter 24.03 RCW and exempt from federal income tax under Section 501(c)(4) of the Internal Revenue Code. WDS holds a Washington Certificate of Registration issued by the Washington State Insurance Commissioner, authorizing it to operate as a health care service contractor in Washington state, as defined in Chapter 48.44, RCW. Its primary business is providing dental benefits coverage and its membership is made up of actively practicing dentists who, as members, are obligated to provide services under WDS group dental care contracts. WDS currently holds an interest in three related companies that are involved in public benefit activities, namely Washington Dental Service Foundation LLC, the Institute for Oral Health LLC, and WDS Holdings LLC. The primary objective of the proposed reorganization is to segregate the corporate activities by establishing a holding company that would oversee the dental benefits coverage business of WDS and the public benefits activities of the other three organizations.

3. **Proposed Reorganization and Merger.** WDS began its effort to reorganize its business structure in 2009. Two new nonprofit corporations were formed under Chapter 24.03 RCW in 2009, i.e., DD of Washington, the proposed holding company, and WDS Merger Sub, a subsidiary of DD of Washington. In October 2009, DD of Washington obtained an affiliate license from Delta Dental Plans Association. On December 21, 2012, DD of Washington was granted tax exempt status under Section 501(c)(4) by the Internal Revenue Service.

4. Under the reorganization plan, WDS proposes to merge with WDS Merger Sub, a nonprofit corporation that was formed for the purpose of effectuating this reorganization. The merger would be a “reverse merger” in that WDS will be the surviving corporation. The surviving corporation would retain all of the rights, assets, liabilities and obligations it had prior to the merger and the directors and officers of WDS would continue to be the directors and officers of the surviving corporation. DD of Washington would be the sole member of the surviving corporation.

5. As part of the merger, the Articles of Merger provide that the name of the surviving corporation (i.e., WDS), would be changed to Delta Dental of Washington. Further, WDS proposes to amend the Articles of Incorporation of the holding company (i.e., DD of Washington) to change the name of the holding company to “Washington Dental Service.” In other words, Washington Dental Service (which was formerly called DD of Washington) would be the holding company of Delta Dental of Washington (which was formerly called Washington Dental Service).

6. WDS is currently organized under Chapter 24.03 RCW which prohibits distributions to members. In order to achieve the Applicant’s objective of segregating the various corporate activities of WDS, after the merger the Applicant plans to reorganize under another Washington nonprofit corporation act, Chapter 24.06, which allows distributions to members. This would be achieved by filing Articles of Amendment with the Secretary of State. Once this is done, the Applicant plans to make an extraordinary distribution of its interests in Washington Dental Service Foundation LLC, the Institute for Oral Health LLC, and WDS Holdings LLC -- which are the entities which focus on the public benefit mission of improving oral health -- to the holding company (currently DD of Washington, which as described above would change its name -- to Washington Dental Service). [Ex. 1, Application

with attached Ex. K of Reorganization Plan (Diagrams of Holding Company Structure.)

7. **Result of Proposed Reorganization and Merger.** The Applicant acknowledges that the Bylaws of WDS Merger Sub and of DD of Washington reflect the current Bylaws of WDS. Therefore, the members of WDS would have the same rights after the merger and reorganization as they currently have with WDS. Furthermore, the Applicant maintains that individuals who are members in good standing with WDS on the effective date of the proposed merger will become members of DD of Washington. The Applicant also acknowledges and represents that all existing dental benefits, coverage agreements and all of the participating provider agreements with dentists will remain in full force and effect with the surviving corporation after the proposed merger and reorganization takes place, that all group contract holders, subscribers and dependents will retain all rights and privileges that they had before the proposed merger and reorganization and the surviving corporation will remain registered as a health service contractor.

8. The Insurance Commissioner issued an Order Granting Exemption to RCW 48.31C.030, No. 09-0089, on July 7, 2009, exempting WDS's proposed reorganization from the requirements of RCW 48.31C.030. Because the reorganization involves a merger, specifically a reverse merger in this case, the plan is subject to RCW 48.31.010. Pursuant to RCW 48.31.010, the Insurance Commissioner shall not approve a plan of merger unless, after a hearing, it is found that the merger is fair, equitable, consistent with law, and that no reasonable objection exists.

9. WDS' proposed plan of merger and reorganization, as described above and under the terms and conditions set forth in the documents included in its Application filed herein, is fair, equitable, and consistent with law. [Ex. 1, Application; Live and Written Testimony of Berg; Live and Written Testimony of Pastuch.]

10. On April 26, 2013, the OIC posted information on the OIC website notifying the public of the proposed plan of reorganization and merger which is the subject of this adjudicative proceeding, and of the fact that this administrative proceeding would take place to consider whether to grant or deny approval of this proposed plan. On April 29, 2013, the undersigned entered her Notice of Hearing summarizing this proposed transaction and informing the parties and the public that the hearing herein would take place on May 9, 2013 at the hour of 10:00 a.m. and advising that any interested party could participate in the hearing. [Hearing Ex. 1, Notice of Hearing.] The OIC published this Notice of Hearing on the Insurance Commissioner's website the same day. Said Notice remained published on the OIC's website until the time of the hearing. [Live and Written Testimony of Pastuch, Exs. A and B.] By these means, reasonable notice was given to the public.

12. Neither the OIC, the Applicant, nor the undersigned has received any objections to the proposed plan of reorganization and merger. [Live and Written Testimony of Berg; Live and Written Testimony of Pastuch.]

13. Bradley A. Berg, Chief Operating and Financial Officer of Washington Dental Service, testified on behalf of the Applicant. Mr. Berg presented his testimony in a clear, detailed and credible manner and exhibited no apparent biases.

14. Ronald J. Pastuch, Holding Company Manager in the Company Supervision Division of the Office of the Insurance Commissioner, testified on behalf of the OIC. Mr. Pastuch presented his testimony in a clear, detailed and credible manner and exhibited no apparent biases.

15. Based upon the above Findings of Facts, it is here found that there exists no basis for denial of Washington Dental Service's Application, which requests approval of its proposed plan of reorganization and merger under the terms and conditions set forth in said Application, and that therefore it is reasonable that this proposed plan of reorganization and merger should be approved.

CONCLUSIONS OF LAW

1. The hearing herein was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied. Pursuant to Title 48 RCW and specifically RCW 48.31.010(1), the Washington State Insurance Commissioner has jurisdiction over the merger of WDS with and into WDS Merger Sub. Further, the undersigned has been properly delegated the authority to conduct the adjudicative proceeding in this matter, to review and consider all documents and evidence presented and to make the final determination herein without consultation with the Insurance Commissioner, any member of his staff or any other individual who has knowledge of the facts of this matter.

2. Pursuant to RCW 48.31.010(1)(a), the Applicant, Washington Dental Service, filed its plan of reorganization and merger for approval by the OIC prior to the merger. As contemplated therein, the OIC staff properly determined that the Applicant's filing was complete and transferred the file to the undersigned with the request that an adjudicative proceeding be held to hear evidence and make the final decision in this matter.

3. Pursuant to RCW 48.31.010(1)(b), a plan of merger shall not be approved unless, after a hearing, the merger is found to be fair, equitable, consistent with the law, and that no reasonable objection exists.

4. Pursuant to RCW 48.31.010(1)(c), no director, officer, member, or subscriber of WDS received any fee, commission, other compensation or valuable consideration whatsoever, for in any manner, aiding, promoting or assisting in the merger or consolidation.

5. Pursuant to RCW 48.31.010(1)(d), the merger shall in other respects be governed by the general laws of this state relating to business corporations.

6. Pursuant to the above Findings of Fact, and specifically Finding of Fact Nos. 9 and 10 above, it is hereby concluded that there being no reasonable basis upon which to deny Washington Dental Service's Application for approval of its proposed plan of reorganization and merger, said proposed plan of reorganization and merger should be approved.

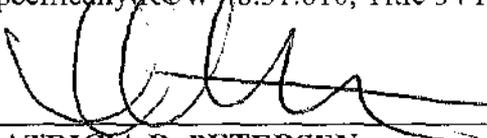
ORDER

Based upon the above Findings of Facts and Conclusions of Law,

IT IS HEREBY ORDERED that Washington Dental Service's proposed Plan of Reorganization and Merger, under the terms of its Reorganization Plan, Articles of Merger, and other documents pertinent to this transaction which were filed herein, and specific testimony presented at hearing, is **APPROVED**.

IT IS FURTHER ORDERED that at the close of the adjudicative proceeding held May 9, 2013, after presentation of all evidence and consideration by the undersigned, the undersigned orally granted approval of this proposed Plan of Reorganization and Merger effective May 9, 2013. Therefore, this written Order confirms that oral Order entered by the undersigned on May 9, 2013. Approval of this proposed Plan of Reorganization and Merger is therefore granted effective May 9, 2013.

ENTERED at Tumwater, Washington, this 22nd day of May, 2013, pursuant to Title 48 RCW and specifically RCW 48.31.010, Title 34 RCW, and regulations applicable thereto.



PATRICIA D. PETERSEN
Chief Presiding Officer

Pursuant to RCW 34.05.461(3), the parties are advised that they may seek reconsideration of this order by filing a request for reconsideration under RCW 34.05.470 with the undersigned within 10 days of the date of service (date of mailing) of this order. Further, the parties are advised that, pursuant to RCW 34.05.514 and 34.05.542, this order may be appealed to Superior Court by, within 30 days after date of service (date of mailing) of this order, 1) filing a petition in the Superior Court, at the petitioner's option, for (a) Thurston County or (b) the county of the petitioner's residence or principal place of business; and 2) delivery of a copy of the petition to the Office of the Insurance Commissioner; and 3) depositing copies of the petition upon all other parties of record and the Office of the Attorney General.

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: Sean P. Pickard, Barbara Shickich, Esq., Mike Kreidler, James T. Odiorne, Charles Brown, Esq., Robin Aronson, Esq., and Ronald J. Pastuch.

DATED this 22nd day of May, 2013.



KELLY A. CAIRNS