In the Matter Of:

EVERGREEN HEARING

HEARING

June 07, 2017

MARYLAND INSURANCE ADMINISTRATION

RE: EVERGREEN HEARING

BEFORE THE HEARING COMMISSIONER AL REDMER, JR.

Baltimore, Maryland

Wednesday, June 7, 2017

8:58 a.m.

Job No.: WDC-129180

Reported by: Sheri D. Hayhurst-Smith, RPR

Pages: 1 - 44

EVERGREEN HEARING held at the Offices of:

MARYLAND INSURANCE ADMINISTRATION
200 St. Paul Place
Suite 2700
Baltimore, Maryland 21202

Pursuant to Notice, before Sheri D. Hayhurst-Smith, Registered Professional Reporter and Notary Public in and for the State of Maryland.

A P P E A R A N C E S

HEARING OFFICER:

AL REDMER, JR., COMMISSIONER
MARYLAND INSURANCE ADMINISTRATION
200 St. Paul Place
Suite 2700
Baltimore, Maryland 21202
(410) 468-2090

ALSO PRESENT: Vincent P. O'Grady, CPA
J. Van Lear Dorsey, Principal Counsel
Ren L. Tundermann, Esquire
George J. Nemphos, Esquire
Maulik S. Joshi, DrPH
Calvin E. Swartley, ASA, CFA
Donna C. Novak, President NovaRest
David Krajewski, LifeBridge Health
Susan Stitcher, JARS Health Investments
Aaron Moore, Orange Element
Barb Van Buskirk, Vice President of Marketing
Dr. Peter Beilenson, Vice President of Evergreen

C O N T E N T S

MR. REDMER: It's 10:00 o'clock [sic]. My name is Al Redmer. I am the commissioner for the State of Maryland. I'm sorry. It's 9:00 o'clock. I've already screwed up the record.

With me at the table, to my right is Vinnie O'Grady, who is the Associate Commissioner of Examination & Auditing.

And to my left is Van Dorsey, who is the principal counsel from the Office Of The Attorney General.

The administration has before it the application of Evergreen Health, Inc., a nonprofit HMO to convert to a for profit status and be acquired by certain investors.

The parties wishing to acquire Evergreen are JARS, J-A-R-S, Health Investments, LLC, Anne Arundel Health System, Inc. and LBH Evergreen Holdings, LLC.

The application was received by the Administration on May 1st, 2017. The Administration published notice of the application and of this hearing, which is required by Section 6.5-203 of the State Government Article of the Annotated Code of

Maryland.

I, as commissioner, may not approve the conversion and acquisition unless I determine that it is in the public interests.

In that regard, the criteria on which the review is based is spelled out in the law.

We have asked Evergreen to provide testimony today to address the criteria and to explain why this proposed transaction is indeed in the public interest.

Following the testimony, on behalf of Evergreen, others present who have signed up to testify may do so. Time limits may be imposed for the other interested parties, if necessary. My staff and I, from time to time, may pose questions.

For those individuals who are unable to attend in person, we have established a conference call line. It sounds like there's a few folks on the line. I would ask that if you're not speaking, to mute your phone, but please do not place it on hold.

As we get started, if you are on the phone, would you mind identifying who you are.

MR. MOORE: Hi. Aaron from Orange Element is here. We're representing Evergreen Health, as an agency for marketing.

MS. BUSKIRK: Barb Van Buskirk, vice president of marketing.

MR. REDMER: Is anybody else on the phone? Okay. With that, we will move along.

At this time, I would like to ask Evergreen to present its first witness, who I believe is Dr. Peter Beilenson, the president and CEO of the company.

Peter, welcome, and thanks for participating.

MR. BEILENSON: Thanks for having me, Mr. Redmer, Mr. Dorsey, Mr. O'Grady. Thank you for the opportunity to present this.

I'm pleased to bring this transaction to you and the community to demonstrate that the proposed conversion and acquisition of Evergreen is in the interest of its policyholders and the insurance market and citizens of this state.

Ironically, having been initiated as a part of the co-op program of the Affordable Care Act, if it weren't for two arcane aspects of the ACA, being outrageous payments required of us from the fatally flawed risk adjustment process and the federal government not paying Evergreen what we were owed under the risk quota program, we would not be here today.

In fact, prior to the imposition of the risk adjustment payment, we were actually profiters, if you remember.

In late June of 2016, after we were assessed a $24,000,000 risk adjustment payment, over 28 percent of our entire revenue for the year, all of which we had to pay to our chief competitor in the Maryland marketplace, we found ourselves in a financially untenable situation. Simply put, without significant capital to refill our completed reserves, we could not continue to operate.

With that said, July of 2016, we began pursuing potential investors, seeking a transaction that would save Evergreen and be good for our customers in the community, in part, by continuing to provide for a mutual competitor in the marketplace.

After talking with more than 75 potential investors from all over the country, we eventually selected three local investors with great reputations in the state, JARS, Anne Arundel Health System and LifeBridge Health.

After negotiations with both state and federal regulators, as you are very cognizant of, we emerged from the co-op program on January 19th, 2017. At that time, I can't remember exactly.

And with our three partners, filed an application as the commissioner mentioned, to convert to a for profit entity on May 1st, 2017.

Since that time, we have responded to written questions from the MIA and submitted written testimony for this hearing. All of this taken together shows that this transaction is in the public interest.

In support of this conclusion, you will hear from Evergreen's valuation and community impact experts. These three purchasers will speak later this morning as well.

I would like to thank the purchasers,

especially Mark Quente for working so hard to save Evergreen. Mark and JARS became involved last October and has stood by in the roller coaster ride that has been this experience for the past several months, and we are very grateful to them.

I'd like to thank our regulatory counsel, Ren Tundermann, for her tremendous efforts in speeding this process along in the midst of chaos at times.

I'd like to thank our brokers, many of whom have worked hard to continue to sell our plans even in the face of an uncertain future.

But most of all, I would like to thank all of Evergreen's employees. This has been an incredibly stressful year, not knowing whether we would survive and often it felt like, with the caseload, and endless limbo.

Our employees have worked very hard to keep the company alive and moving forward, and I am very proud of the entire team.

Finally, we are very excited about the opportunities ahead for Evergreen Health. Having two health systems and a cadre of experienced

insurance and health care executives on our team
opens the door to many new possibilities.
We look forward to Evergreen emerging stronger
than ever before.
I look forward to answering your questions and
look forward to having our experts and the
purchasers come forward after me.
MR. REDMER: Any questions?
MR. DORSEY: Two questions, I think. As
for as you know, it's the investors' intentions
to retaining you as CEO immediately following
the acquisition, correct?
MR. BEILENSON: Yes.
MR. DORSEY: And there are no retention
bonuses or anything of that nature?
MR. BEILENSON: That is correct.
MR. REDMER: Ren, did you want to say
anything, or are you just here to control him?
MS. TUNDERMANN: I'm wrangling the truth.
I'm fine.
MR. REDMER: Thank you, Van.
MR. DORSEY: Is the next witness

Ms. Novak?

MS. TUNDERMANN: No. The next witness will be Mr. Swartley from Moss-Adams --

MR. DORSEY: Sure. Very good.

MS. TUNDERMANN: -- our valuation expert.

MR. SWARTLEY: Where would you like me?

MS. TUNDERMANN: Here. You guys can switch.

Calvin will summarize his valuation analysis, including his updated analysis, and then he will be glad to answer any questions.

MR. REDMER: If you don't mind, give your name and company for the record.

MR. SWARTLEY: Yes. Absolutely. My name is Calvin Swartley, and I'm with Moss-Adams, LLP.

We're a regional accounting form based on the west coast. Within that firm -- it's a traditional tax and accounting firm -- I'm part of the firm's valuation and services group. And I was asked to perform a valuation of Evergreen.

We were retained last August, August of 2016, and performed a valuation, with an effective date of September 15th, which we provided to management in a draft form.

After that time, we were asked to later update our valuation and prepare it as of the date of January 31st, 2017.

Within the valuation, we considered approaches that would be applicable for Evergreen, including income approaches, market approaches, asset-based approaches. We also considered some of the assumptions that are included in your state statutes, which considered 100 percent of the company being sold or the equity of it being sold, the earnings capacity, the market, the net asset value, whether or not a controlled premium would be applicable, and to make sure that we considered it on an ongoing concern basis, which basically assumes that it will continue into the future. Not that it would be liquidated.

Within our analysis, we looked at various measures within each of the approaches. We collected a great deal of data from the company, including past financial performance, future expectations. We looked at things that are going on out in the market place, local economy demographics, things of that nature to assess how the company is doing and how it will perform going forward.

Within our analysis, we prepared an income approach to look at future cash flows of the company, both on a going forward basis, but we also did consider a wind-down scenario, assuming that this conversion, if it did not happen, what would the company be like.

We looked out to the marketplace for comparable transactions of other insurance companies that have been bought and sold, as well as public companies and how they trade in the marketplace.

And, finally, we looked at the company's balance sheet and its assets versus its liabilities.

Based on our assessment of all of those facts, characteristics, at the time of January 31st, most of our approaches were indicating that there was zero equity or surplus value. Although there were assets on the books, the liabilities outscript those and made it essentially either a zero or a negative number.

As we have moved forward from that point, we have been asked to look at the performance of the company and consider what that performance would do in light of the valuation and where we were coming out.

And since that time, it's my understanding, from the information I've been provided, one, there were some adjustments to the year-end financials, which actually made it look worse than the information we have been provided, and, two, that it continues to operate with losses and has had to take on more surplus notes to just fund its operations.

So, at this point in time, unless there is there something that we weren't provided, it would be difficult for us to say that the value has increased from the values that we have provided in January.

MR. REDMER: Two questions: This is probably pretty basic. But could you describe what a controlled premium is?

MR. SWARTLEY: Oh, sure. That's a very good question. And within our report, one of the things that we show is some of the data that might support that.

So, oftentimes, when a company is looking to acquire another company, especially when you start to look at public companies, you'll see that at the point that there's an announcement, the buyers are willing to pay a price higher than the price that the shares are trading in the open market at that point in time.

MR. REDMER: Right.

MR. SWARTLEY: And I think it's important to note that we see that often, that the buyer feels that they may have some synergies or cost efficiencies or other things that make them think that we can pay a premium above what the market says, you know, what a tradeable amount would be.

So, we did consider that within our analysis.

MR. REDMER: Got it. Let's take Evergreen out of it for a second, because I think we'll

probably get into these questions when we speak
to the investors. But you do this in other
industries for other companies. So, let's take
Evergreen out of it.
One of the general questions is going to be if
a company does not have a value, then why is another
company going to be interested in purchasing that
for whatever amount of money.
So, could you walk through just the laundry
list of some of the reasons that one company would
pay money to buy another company that technically
may not have any value.
A Sure. And that's a very good question.
Obviously, having not talked to the investors, I
don't know their motivations.
MR. REDMER: Right. We'll ask them.
MR. SWARTLEY: But in general -- yeah.
But in general, you raise a good question,
because there are motivations for companies to
buy other companies, depending on situations
and facts and circumstances. Sometimes that
can be that the buyer feels that they can do a

better job running the company. So, they can
come in, and I'll say fix some of the things
that maybe weren't working correctly, or they
may see that there's an opportunity to enhance
their own business line. So, vertical
integration is a term we often use.

So, taking that company, putting it with some of the services that they already provide and trying to provide a more complete package and control both revenue and costs of everything that's going on. Sometimes there are predatory reasons for doing that, taking a competitor out of the marketplace, and, also, at times, there are situations where the other company that is struggling, and someone is willing to come in, buy it and try to liquidate it and see if they can walk away with anything at the end of the day.

MR. REDMER: Right.

MR. SWARTLEY: So, those would be many of
the reasons that someone may be willing to pay
for a company, any type of company.

MR. REDMER: Right. Thank you. Van?

MR. DORSEY: Is it an accurate summary of your testimony from your report, that in this case, because of the liabilities exceed the assets, that in your view, there are no public assets in this case?

MR. SWARTLEY: Correct. Yes.

MR. REDMER: Great. Thank you.

MR. SWARTLEY: Thank you.

MS. TUNDERMANN: Next, we will hear from Donna Novac. She did the community impact analysis for Evergreen.

MS. NOVAK: Good morning. I am Donna Novac with NovaRest Consulting. NovaRest Consulting is an actuarial consulting firm that works with state and federal insurance underwriters.

We were asked to look at the community impact of this proposed acquisition. And our final report was published on or about April 27th, and it's available. And, so, what I am going to be summarizing is actually the April 27th report from this year.

One of the things that we found from our analysis is that this acquisition would be beneficial to the community served by Evergreen, that it would not be detrimental to the availability or access to health services.

As we've already heard, Evergreen has a very hazardous financial situation right now, and this acquisition would provide the funds to bring the risk-based capital or solvency up to an acceptable level.

Evergreen, right now, offers products in the small group and large group markets. Because of its financial condition, it's been suppressed from offering products in the individual market in 2017. But once its financial condition is satisfactory, and that suppression is raised, it intends to enter into the individual market also.

There are approximately five carriers in the individual market right now. Some of those affiliated, and approximately 11 in the small group market. Some of those are affiliated. And what Evergreen brings is further competition in those markets.

It's been showing over and over again that the more competitors in the health insurance market, the premiums tend to be lower. Also, Evergreen provides additional choice in those markets as far as products.

If Evergreen cannot continue, if this acquisition is not in place, its members will have to find another carrier, Evergreen being their carrier of choice. They will have to find another carrier. They will possibly have to pay higher premiums for similar benefits when they change carriers, and they may have to change provider networks and wouldn't have the choice of providers.

The acquirers have said that at the beginning, right after the acquisition, they do not intend to change the products or the operations of Evergreen; although they are intending to look at best practices in the marketplace, and potentially make some changes going forward.

Premiums will probably increase, because Evergreen, right now, is not subject to premium tax, and they will be subject to premium tax once it's for profit. And, also, premiums will have to cover any return on investment with the prior example.

But in support of having affordable health care, being acquirers are committed to bringing the risk-based capital up to 71 percent at the time of acquisition, and they are going to make efforts to bring the risk-based capital up to 200 percent by the end of 2018.

As far as equitability to the current members, ACA does not allow underwriting and does not allow pricing on morbidity. The acquirers are not intending to change the underwriting standards in the large group market, but, again, if the acquisition does not take place, the members will have to find insurance with another carrier and potentially have a higher price and potentially have to change networks. Are there any questions?

MR. REDMER: We're good. Thank you very much.

MS. TUNDERMANN: One of the other required elements in a conversion application is an analysis of the anti-trust issues.

Evergreen submitted a legal opinion in that regard, and the principal counsel asked for some additional analysis, which was provided.

And with that, we felt we didn't need the lawyer to appear and speak to his opinion, that the opinions speaks for itself.

MR. DORSEY: And both documents are in front of you.

MS. TUNDERMANN: Yes. So, now, we would like to introduce you to our investors, and let you hear from them and talk with them about their plans for Evergreen. We've arranged to have one representative of each of the investors, so that you may ask questions of each of them. But we'll begin with the opening statement.

MR. JOSHI: Thank you. Good morning, everyone. My name is Maulik Joshi, and I'm the executive vice president and chief operating officer for the Anne Arundel Health System.

Thank you, Mr. Commissioner, Mr. Associate

Commissioner, Mr. Dorsey. We appreciate the opportunity.

On behalf of the investors, JARS Health Investments, LLC, LifeBridge Health and Anne Arundel Health System, we appreciate the opportunity to appear before you today in support of Evergreen Health application to convert to a nonprofit to a for profit company and our application to acquire Evergreen Health.

As I think, as you've heard earlier, we know Evergreen's path to this day has been long and challenging, but we want to share with you how excited we are for the commissioner and the community, in terms of the path for should these applications be approved.

So, first, speaking for Anne Arundel Health System, it has been a core tenet of our strategic plan to create a provider sponsored health plan. We developed a strategic plan in 2009 called Vision 20/20, and again, the core strategic and issue is developing a provider sponsored health plan.

Our investment in Evergreen is a strategic investment. We want to further population health and further integrate the delivery of care and the financing.

Our Anne Arundel Health System mission is to enhance the health of the people we serve, and providing affordable health care coverage to Maryland citizens is essential to health. We know that health insurance is related to better access. Better access relates to better care, and better care relates to better health. That's the triple A, and we are aligned with Evergreen on the Triple A -- best care, best service, lowest costs possible.

My colleagues and I have had many conversations with the leadership of LifeBridge and with JARS, and we certainly know that we share a common vision in terms of where we're going. While the creation of a provider sponsored health plan is not part of LifeBridge's core strategic plan, they, like us, view the acquisition of Evergreen as an exceptional opportunity to improve the health of the citizens of Maryland.

I know, also, that LifeBridge Health has developed a geographically disseminated network of providers across the health care, continuing from urgent care to nursing homes, hospice care, and bringing these providers into the Evergreen provider network will give its members more choices and easier access to services.

Also, Anne Arundel Health and LifeBridge Health serve different areas of the state. So, our interests -- and ours are complimentary, not entitlement.

The motivation of JARS is a little different than as its partners. JARS is an investment vehicle founded by a group of individuals and entities with over 100 years of experience working within the continuing care of the Maryland health care industry, including over 20 years of experience in health insurance. JARS was created with the dual goals of a long-term financial forum of its investment, coupled with providing capital to preserve competition in the Maryland marketplace while insuring that the citizens of Maryland receive the highest quality of care.

This type of investment, we probably refer to as socially responsible investing or socially conscious investing.

So, simply put, this transaction is in the public interest, because it preserves a lower cost, high quality competitor in the Maryland health insurance markets.

Evergreen has a great history, going from zero to over 35,000 members in three years of operations. Evergreen was founded on the promise of providing affordable, high quality health insurance to members of our community. However, the company needs to be financially viable.

With the competence and experience and financial wear with all of JARS, LifeBridge Health, and Anne Arundel Health System, standing behind Evergreen, Evergreen will achieve financial stability and independence. The collective knowledge, experiences and resources that the partners can bring will benefit the citizens of the state of Maryland and only improve health care delivery to the policyholders.

Should the MIA approve the conversion of Evergreen, a not for profit to a for profit health insurer, and the partners' subsequent controlling investments, the partners will control of Evergreen with cash, there will be no debt to be financed by Evergreen.

To date, the partners have collectively made surplus loans of $12,000,000.

Upon closing, the purchasers will provide additional investments, which are sufficient for Evergreen to satisfy the requirements for its certificate of authority, including the minimum surplus and RBC requirements of Maryland Law.

The partners are fully aware for the potential need for additional capital, and as Evergreen grows in the future, and we are prepared to provide those funds, as necessary.

The strong financial condition of the partners will bring financial stability to Evergreen. This transaction will not substantially lessen competition in the Maryland insurance market or tend to create a monopoly, because none of the purchasers own an interest in any carrier that competes with Evergreen in any market in which it participates in.

Our Form A application provides some information regarding our plans for Evergreen's post closing. We said that we have no plans to declare any extraordinary dividend, to liquidate or sell any of Evergreen's assets, or to merge Evergreen with any other entity.

We said we have no plans to make any material change in the business operations or corporate structure of Evergreen.

Now, let me just provide a couple of colored commentary around this. First of all, we know that Evergreen's existing policyholders may be concerned about this transaction and what it means for them in the immediate future.

We will impose no mid-term changes to the existing forms or rates of any current Evergreen policyholder. Evergreen currently writes in a small and large group markets, and we are aware that it has filed forms and rates both for the small and individual markets for 2018.

We understand that these filings are under review at the Insurance Administration, and expect that Evergreen will keep us apprized of developments prior to closing.

We know that Evergreen is advised by Milliman with regard to its rate filings, and we do not expect to change that relationship after closing.

Evergreen has an extensive provider network, both directly contracted in Maryland and through a national leased network. We expect to encourage and support Evergreen's expansion of its directly contracted Maryland network post closing, including, of course, the providers associated with as the investors.

We stated in the forma that there are no employment consultation, advisory or management contracts concerning Evergreen. We intend that Evergreen be managed by its leadership team, and its board, and have no plans to outsource management to any of them.

We have spoken with Dr. Beilenson, and Dan Ragan and Dustin Plantholt, encouraging them to stay with the company post closing.

After closing, the board will further assess the strengths and weaknesses of the leadership team and group at Evergreen.

The purchasers expect the new board will wish to have one or more management level employees as a result of that assessment. We also intend to engage a consultant post closing to assist in assessing potential changes in management and improvements to operations. There is no employee incentive or bonus plan in place at Evergreen in 2017.

After closing, we expect a new board will establish an incentive or bonus plan to align with the employees' performance and with the company's goals and objectives, which is the Triple A.

We appreciate the support and patience of the administration, as well as Evergreen's policyholders, brokers and employees, as we undertook detailed due diligence with the company and crafted a deal structure that best serves the company's policyholders and the company.

We believe this transaction is in the public interests and should be approved.

Now, let me introduce my two colleagues, Dave and Susan.

MS. STITCHER: Good morning. My name is Susan Stitcher. I am a member of the JARS health care investment group. I have over 25 years of health care experience, predominantly in the Maryland market. I was employed by consulting companies, as well as a Maryland hospital. And I currently am a small business owner with an organization that focuses on medical record and the accuracy.

I appreciate the opportunity to be part of the team.

MR. KRAJEWSKI: Good morning. I'm very excited to be here. My name is David Krajewski. I have been with LifeBridge for 26 years now. Prior to that, I was with Arthur Andersen, as a health care consultant on the division side.

I have 31 years of experience in health care. I served as the executive vice president at

LifeBridge and the CFO, and I'm the president of LifeBridge partners, which is the entity that we invested in in Evergreen.

MR. REDMER: So, now, thank you. Your opening statement provided a laundry list of questions, of which none of them have anything to do with whether this is in the public interests.

So, I look forward to asking you those questions at another time. Vinnie, any questions?

MR. O'GRADY: Sure. So, I appreciate your introductory comments on generically why you all would be interested in this acquisition, but let me just ask the investors collectively.

The valuation analysis that Moss-Adams prepared, concluded that the fair market value is zero, and, you know, the financial statement show a negative surplus.

So, could you just please explain, you know, why you all believe that it is a good investment for you all to invest the 12,000,000 to date, plus the substantial amounts that remain and the additional amounts --

MR. KRAJEWSKI: There's two parts to that answer. One is it's a strategic investment for at least two of us. We believe this is an investment not only that has a financial return in the future, but an investment that will help us to maintain the triple A to support the waiver that Maryland has with Health Services Cost Review Commission. So, it's a very strategic asset for us.

In addition to it, we believe that an insurance company that is well run, with proper capitalization, and the right partnership -- so, we believe that we bring those partnerships to the table -- will, in the future, have value. There's risks associated with that, certainly, and there is going to take some period of time to get it to that point where it would be producing profit and surplus and have future value. But we believe we can get it there.

MR. O'GRADY: Do you have any further specifics about how you think you will get there?

We recognize that some of the federal charges that Dr. Beilenson mentioned, certainly contributed to develop these financial problems and the risk adjustment program still exists.

And, so, just anymore detailed thoughts on how you believe you will achieve profitability?

MR. KRAJEWSKI: Certainly, the scale is one of them. So, the partnerships we believe will allow us to build the membership and run the scale of the companies, such as the revenue based at the top is larger. But, also, being providers, we also believe that we can reduce the revenue loss ratios, manage the medical expenses in a way that they will be around 85 percent or so and get the overhead down to less than 15 percent.

So, we're looking at it from that standpoint. That loss ratio, do we think we can get it to 85 percent? Probably. Can we get the overhead down to 15 percent? We believe we can. In order to do that, we also have to build the scale of the company.

MR. O'GRADY: So, you mentioned the commitments to bring the surplus to certain levels.

So, let's assume for a moment that the MIA approves transactions. And let's assume for a moment, for the sake of discussion, the company continues to incur losses. Let's just make that assumption.

Have the investors determined any point at which you would walk away from the monies invested to date as opposed to continuing to invest any additional monies?

MR. JOSHI: We have invested in Evergreen to make it successful. So, we understand the capital requirements, and we understand that there will be further capital requirements.

Again, we are not walking away easily. We are here to make this -- and as David has said, "this is a strategic investment." So, we're here to make it worth it.

MR. DORSEY: You've done your due

diligence.

MR. JOSHI: We've done our due diligence.

MR. DORSEY: To follow up that question, in the stock purchase agreement, there is a commitment to get the RBC levels to 200 percent RBC.

I just want to hear who you acknowledged tat, if I could. And because that's a significant factor for us in determining whether the surplus levels are going to be at a sufficient level.

MR. KRAJEWSKI: Right. We understand that, and when we did our due diligence, that was in our prior capital planning process, that we need to get the company to 200 percent RBC.

So, all three of the investors have looked at that, and at this point in time, we believe that that is something we are willing to form again.

MR. DORSEY: In the stock purchase agreement, it uses the phrase "commercially reasonable efforts to get it to that level."

What does that mean to you?

MS. TUNDERMANN: In some ways, that's a

lawyer question. So, if you ever --

MR. REDMER: Aren't they all?

MS. TUNDERMANN: I mean, feel free to answer. But if you would like to refer to George Nemphos, I'm sure he will be glad to answer.

MR. DORSEY: In this case, I'll just ask if you agree with counsel.

MR. KRAJEWSKI: We will defer to George. Understand that the investors are going to be putting 25,000,000 to $30,000,000 on the onset. So, we're not taking that type of investment lightly.

So, we would not walk away very easily. That is a large investment, and we anticipate future investments beyond that.

But I'll let George answer the lawyer part of the question.

MR. NEMPHOS: Thanks. Good morning. The term "commercially reasonable efforts," Van, as you know, is a legal term.

Specifically, from a legal standpoint, it means such efforts that a person or a business in the same position would reasonably take to ensure the outcome necessary to be sought.

In this case, what we view that as is that as it moves forward, Evergreen is clearly its own entity, with the guidance, help and support of these three individual partners. It's the intention, as you've heard this morning already, that it become a financially viable and capable company in delivering the product and assisting in the health care that is in the state of Maryland.

To do that, there is certain regulatory requirements with regard to RBC level. And as investors, they are willing to take the steps that another person or entity would be in in a similar situation would be in and reasonably would take, and we're to ensure that.

Does that mean that these three partners, in the end, will continue to work and try to financially support and finance the needs? Yes. But as a living, breathing entity, in and of itself, they will have to examine the situation each time for what's the best method, the best way, and the best process in which to get to 200 percent.

And as in any business, those commercially reasonable efforts could include a variety of different things, including what you all have been alluding to, which is the financial agreement with these gentlemen and Susan and her team.

MR. REDMER: Which brings a question for Susan. A lot of the conversation has been focused on the cash that's going to be going out of the investors' checkbook into Evergreen as part of the -- I'll refer to it as for profit investments.

What do you think is the realistic timeline for there being any kind of return on that investment?

MS. STITCHER: So, from JARS' perspective, we are looking at this being a long-term commitment and a long-term investment.

We understand that the losses today really need to be scrutinized in understanding where we can start to make a turn.

I would say in the short term, we do need to minimize that. That would be the goal. But long term, I would say within 18 months to 24 months. We would really hope that this will be something that can stand on its own, to be able support these three investors, to be able to give the existing management team to perform at a different level than before.

MR. REDMER: Thank you. Van, do you have anymore?

MR. DORSEY: No.

MR. REDMER: We're good. Thank you.

MS. TUNDERMANN: So, Commissioner, if I may just wrap up before I hand it back to you to see if there are any others who wish to speak.

As you said at the opener, we have worked hard in the last year to draw up the transaction to bring to you for your approval that protects the company and its policyholders and the community. We developed these comprehensive applications, both conversion and acquisition applications. We have submitted written testimony. We have responded to your questions in writing, and are happy to continue to do so, as you deliberate on these applications.

But we think we have built a record that meets every element of the required statutes, and we are certainly hoping that you will approve both the conversion and the acquisition as being in the best interests of the community.

MR. REDMER: Thank you.

MR. DORSEY: Thank you all for signing up with regard to the hearing.

As I reviewed the hearing sheet, it does not appear that there are any others who wish to step forward and testify.

If I'm inaccurate in that, if there are any folks up there, out there who wish to testify, please come forward.

MR. REDMER: Should we pull one or two out and make them say something?

MR. DORSEY: So, the transcript will be made part of the record. We, the MI, will be reviewing the transcript, as well as the testimony that both are written and will be heard today, as well as the other elements of the application, both confidential and what have been made to the public.

So, we hope to have the answer soon. And if you all have any questions, let us know.

MR. REDMER: Is there anybody on the phone that wishes to comment?

MS. BUSKIRK: I think we're good.

MR. REDMER: All right. Real good. That concludes this public hearing. Thank you for coming.

(The Evergreen Hearing was concluded at 9:39 a.m.)

CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

I, Sheri D. Smith, Registered Professional Reporter, the officer before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record the testimony given; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my direction and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 15th day of June, 2017.

My commission expires November 4, 2020.

____

REGISTERED PROFESSIONAL REPORTER

NOTARY PUBLIC FOR THE STATE OF MARYLAND