

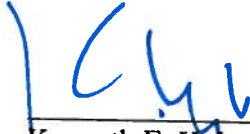
STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE ACQUISITION OF)
CONTROL OF BEACON HEALTH)
STRATEGIES, LLC, AND OF VALUE) ORDER APPROVING
OPTIONS OF NEW JERSEY, INC., BY BAIN) ACQUISITION
CAPITAL INVESTORS, LLC, ET AL., AND BY)
DIAMOND CASTLE INVESTORS GROUP, ET AL.)

I have read the Hearing Officer's report dated December 18, 2014 regarding the above-captioned matter and I concur with the recommendation contained therein. Accordingly, pursuant to N.J.S.A. 17:27A-2, I hereby approve the proposal of Bain Capital Investors, LLC, through Bain Capital Fund, XI, L.P. and other constituent funds; the Diamond Castle Investment Group, through its constituent funds; and Ari Benacerraf, Michael Ranger and Andrew Rush to acquire control of Beacon Health Strategies, LLC and ValueOptions of New Jersey, Inc.

12/18/14

Date



Kenneth E. Kobylowski
Commissioner

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE ACQUISITION OF)	
CONTROL OF BEACON HEALTH)	
STRATEGIES, LLC, AND OF VALUE)	HEARING OFFICER'S
OPTIONS OF NEW JERSEY, INC., BY BAIN)	REPORT
CAPITAL INVESTORS, LLC, ET AL., AND BY)	
DIAMOND CASTLE INVESTORS GROUP, ET AL.)	

Procedural History

In accordance with N.J.S.A. 17:27A-2, by a filing dated July 1, 2014, as supplemented through December 3, 2014, Bain Capital Investors, LLC (“Bain GP”), Bain Capital Fund XI, LP (“Bain XI”), and other constituent funds of Bain GP; and Diamond Castle Investors Group (“Diamond Castle”) consisting of funds DCP IV GP-GP, LLC; DCP IV GP, L.P., Deal Lenders Fund, L.P., Diamond Castle Partners IV, L.P., Diamond Castle Partners IV-A, L.P. and DC Partners IV-A, L.P., ultimately controlled by general partners Ari Benacerraf, Michael Ranger, and Andrew Rush (“the individual applicants”), (all collectively as “the applicants”) filed with the Department of Banking and Insurance (“the Department”) an application to acquire control (“the Form A filing”) of Beacon Health Strategies, LLC (“Beacon Health”) and ValueOptions of New Jersey, Inc. (“ValueOptions”), each a New Jersey-domiciled stock corporation licensed as an Organized Delivery System (“ODS”) (collectively, “the ODSs”).¹ ValueOptions is indirectly ultimately controlled by FHC Health Systems Inc. (“FHC”), a Delaware-domiciled corporation. Beacon Health and its subsidiaries are currently owned, directly or indirectly, by the existing Diamond Castle Funds and the individual applicants. Beacon Health was originally formed on June 7, 1996, and commenced business in New Jersey on March 19, 2012; ValueOptions was

¹ Pursuant to N.J.S.A. 17:48H-16a, a licensed ODS organized under the laws of this State is treated as a domestic insurer for purposes of the Insurance Holding Company Systems Act, N.J.S.A. 17:27A-1 et seq.

originally formed on February 7, 2013, and commenced business in New Jersey on January 1, 2014.

Pursuant to N.J.S.A. 17:27A-2d, a public hearing was held on the Form A filing on December 12, 2014. Pursuant to N.J.A.C. 11:1-35.6(g), the public hearing was conducted based on the documents filed. The hearing panel and Department staff determined that the documents filed in connection with the proposed acquisition satisfied the requirements of N.J.S.A. 17:27A-2b. Public comments were allowed to be submitted through the close of business on December 12, 2014. No comments were received. No other documents were required and the record was closed on December 12, 2014.

Findings of Fact

Beacon Health and ValueOptions are both New Jersey-domiciled licensed ODSs. Beacon Health currently does not provide any services in this State. ValueOptions provides mental and behavioral health services. The proposed acquisitions involve a series of transactions the result of which will be that the Diamond Castle Funds and individual applicants will form a new holding company to be called BVO Holdings, LLC ("New Beacon, LLC") which will indirectly acquire FHC Health Systems Inc. ("FHC"). Accordingly, the Diamond Castle Investors and individual applicants will acquire control of ValueOptions. Contemporaneous to these transactions, the Bain GP administered funds will acquire 32 percent of New Beacon, LLC. The result of the series of transactions will be that the Diamond Castle funds and the individual applicants will control 68 percent of ValueOptions and Beacon Health (with six percent of that 68 percent being owned by the management of New Beacon, LLC); and 32 percent of the ODSs will be owned by Bain Capital Investors and its constituent investment funds. The primary fund

that will control the Bain interest in the New Jersey ODSs is Bain Capital Fund XI, L.P. (“Bain XI”).

The individual applicants have managed Diamond Castle’s entities since their inception in 2004 and collectively have approximately 70 years of investing experience. DCP IV GP-GP, LLC, is a Delaware limited liability company, and is the general partner of DCP GP, which has the ultimate discretion over the investments and management of the entities below it. The individual applicants control DCP GP-GP, LLC.

Bain GP is a Delaware limited liability company and the ultimate general partner of each of the Bain Investors. Bain GP has sole discretion over the investment decisions and management of the partnerships and their related investments, as ultimately determined by Bain’s Global Private Equity Board.

The proposed transaction is part of a larger series of transactions which require regulatory approvals by the states of Florida, Colorado, Pennsylvania, Arizona and Texas.

The applicants stated that the existing management and operations of the ODSs will remain after the proposed transaction. The applicants also stated that they have no plans to materially change the ODSs or corporate structural management. The applicants stated that the business operation of the ODSs may change in a manner consistent with sound business practices in the growth and stability of its businesses, in accordance with applicable law, including any required regulatory approval. The current directors and executive officers of the ODSs will continue following the proposed transaction with the exception that Ms. Heyward Donigan is expected to be replaced by Mr. Timothy Murphy as president of ValueOptions. The applicants also stated that they have no present plans to cause the ODSs to declare any dividends, other than those declared in the ordinary course of business in accordance with all applicable law.

The acquisitions are part of a multistate transaction whereby various entities are being acquired, including the New Jersey ODSs. The applicable portion of consideration for the acquisition of ValueOptions is approximately between \$22.0 million and \$36.0 million. The amount of debt that will be incurred attributable to the acquisition of ValueOptions is approximately between \$8.1 million and \$13.2 million. The applicable portion of consideration for the acquisition of Beacon Health is approximately \$165 million. The amount of debt that will be incurred attributable to the acquisition of Beacon Health is approximately \$60.87 million. Total consideration for the transaction attributable to the New Jersey ODSs is approximately between \$187 million and \$201 million and the total debt to be incurred attributed thereto is approximately between \$68.97 million and \$74.07 million.

Based on the financial statements filed by the applicants, the Diamond Castle Funds had shareholders' equity of approximately \$793.1 million in 2013; \$1.6 billion in 2012; and \$1.6 billion in 2011. In addition, the Diamond Castle Funds had a net decrease in partner's capital resulting from operations of approximately \$255.8 million in 2013 and approximately \$81.1 million in 2012. Bain XI had shareholders' equity of approximately \$247 million as of September 30, 2014, and a net investment loss of approximately \$8.0 million as of September 30, 2014.² The individual applicants also filed financial information with the Department related to their financial position.³

² Bain XI was formed in 2014, and thus there are no year-end financial statements for that entity.

³ Pursuant to N.J.A.C. 11:1-35, Appendix Exhibit A Item 12(b), financial statements for individuals shall not be public and shall not be considered a public record for purposes of the "Right-to-Know" law (now the Open Public Records Act), N.J.S.A. 47:1A et seq.

Analysis

N.J.S.A. 17:27A-2d(1) provides that the Commissioner shall approve an acquisition of control of a domestic insurer unless he or she finds that one or more of the seven disqualifying factors set forth therein exist. The statute provides in pertinent part:

(1) The Commissioner shall approve any merger or other acquisition of control ... unless, after a public departmental hearing thereon, he [or she] finds that:

(i) After the change of control the domestic insurer ... would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this State or tend to create a monopoly therein ... [applying the competitive standard as set forth in the statute];

(iii) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(iv) The financial condition of any acquiring party is such that (a) the acquiring party has not been financially solvent on a generally accepted accounting principles basis, or if an insurer, on a statutory accounting basis, for the most recent three fiscal years immediately prior to the date of the proposed acquisition (or for the whole of such lesser period as such acquiring party and any predecessors thereof shall have been in existence); (b) the acquiring party has not generated net before-tax profits from its normal business operations for the latest two fiscal years immediately prior to the date of acquisition (or for the whole of such lesser period as such acquiring party and any predecessors thereof shall have been in existence); or (c) the acquisition debt of the acquiring party exceeds 50 percent of the purchase price of the insurer;

(v) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and

unreasonable to policyholders of the insurer and not in the public interest;

(vi) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(vii) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

Upon a thorough review of the documents submitted into evidence, the hearing panel and Department staff have determined that none of the seven disqualifying factors set forth above should result if the proposed acquisition is effectuated. Each of these conditions is discussed below.

First, after the acquisition, the ODSs will continue to meet the requirements to transact the business for which they are presently licensed pursuant to Title 17 of the New Jersey Statutes. Beacon Health was formed on June 7, 1996, commenced business in New Jersey on March 19, 2012, and is currently licensed and in good standing. ValueOptions was formed on February 7, 2013, commenced business in New Jersey on January 1, 2014, and is currently licensed and in good standing. There is nothing in the record to indicate that after the proposed acquisition each New Jersey ODS would not be able to continue to satisfy the requirements to transact the business for which they are presently licensed.

Second, it does not appear that the acquisition of the ODSs will substantially lessen competition in the New Jersey insurance market or tend to create a monopoly therein. N.J.S.A. 17:27A-2d(1)(ii) provides that in applying this competitive standard, the standard set forth in N.J.S.A. 17:27A-4.1d shall apply. That statute utilizes a complex formula based on the market shares of the insurers involved in the transaction. In the present matter, based on the

countrywide data available (for 2013) at the time of the filing, the applicants and their subsidiaries, and the ODSs and their affiliates, do not compete in any lines of business in New Jersey. The statute by its terms does not apply if, as an immediate result of the acquisition, there would be no increase in the overall market share of the involved insurers after the acquisition. See N.J.S.A. 17:27A-4.1b(2)(d). As the applicants and ODSs do not compete in New Jersey, there would be no increase post-acquisition in the market share of the involved insurers in the New Jersey insurance market. Accordingly, the acquisition will not violate the competitive standard set forth in N.J.S.A. 17:27A-4.1. Thus, it does not appear that the acquisition of the ODSs will substantially lessen competition in New Jersey or tend to create a monopoly therein.

Third, it does not appear that the financial condition of the applicants will jeopardize the financial condition of the ODS. Based on a review of the individual applicants' financial position, it does not appear that the financial condition of those applicants will jeopardize the financial condition of the ODSs.⁴ Based on the financial statements filed by the applicants, the Diamond Castle Funds had shareholders' equity of approximately \$793.1 million in 2013; \$1.6 billion in 2012; and \$1.6 billion in 2011. Bain XI had shareholders' equity of approximately \$247 million as of September 30, 2014.

Fourth, it appears that, based on the financial information filed by the individual applicants, the financial condition of the individual applicants are such that they have been solvent on a generally accepted accounting principles basis for the three-year period immediately prior to the date of the proposed acquisition, and that they had net before-tax income in 2013 and 2012.⁵

⁴ See fn3 supra.

⁵ See fn3 supra.

In addition, the Diamond Capital Funds and Bain XI both have substantial shareholders' equity for the three-year period immediately prior to the acquisition indicating that they have been in a sound and viable financial condition for the relevant period.⁶ Also, while the Diamond Castle Funds had a net loss for the most recent two years, they had net income of more than \$300 million in 2011, and the individual applicants which control the Diamond Castle Funds each had net income for the relevant period. Further, while Bain XI had a net investment loss as of September 30, 2014, as noted previously, Bain XI was formed in 2014, and its loss as of the third quarter appears to be related to the administrative expenses associated with the start-up of the entity, and - when taken in totality with the financials of the other acquiring parties - does not provide a sufficient basis upon which the acquisition should be disapproved. Accordingly, the hearing panel and Department staff believe that, although Bain XI had a net investment loss, given that the individual applicants that control the Diamond Castle Funds had net income for the relevant period, and that the Diamond Castle Funds had substantial net income for 2011, the acquisition should not be disapproved solely on the basis of the net investment losses of Bain XI and the Diamond Castle Funds. Finally, as described above, the applicants will acquire debt in connection with the proposed acquisition of the New Jersey ODSs that is approximately 36.8 percent of the estimated purchase price. Accordingly, the requirement that the acquisition debt may not exceed 50 percent of the purchase price is satisfied.

Fifth, the applicants do not propose to liquidate the ODSs or sell their assets. As set forth above, the applicants intend to retain the ODSs' existing staff, except for Timothy Murphy replacing Heyward Donigan as President of ValueOptions, and they will continue the New Jersey ODSs' current operations. The applicants stated that, in the future, they will evaluate possible changes to the ODSs to increase efficiencies.

⁶ See fn 2 *supra*.

Sixth, there is nothing in the record from which it may be concluded that the competence, experience and integrity of the persons who will control the operations of the ODSs are such that it would not be in the interest of the policyholders and of the public to permit the acquisition of control. With the exception of the change in the President of ValueOptions set forth above, the persons who will serve as officers and directors of the ODSs are those presently in those positions with the ODSs. Furthermore, the Department has reviewed the biographical affidavit of Mr. Murphy and is satisfied that this change is not a negative for the ODS.

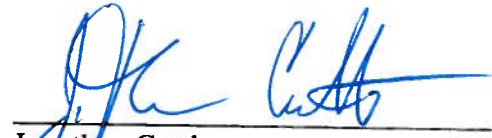
Seventh, there is nothing in the record from which it may be concluded that the acquisition is likely to be hazardous or prejudicial to the insurance buying public for the reasons set forth above.

Recommendation

Based on the foregoing analysis, the hearing panel and Department staff recommend that the proposed acquisition be approved.

Upon a thorough review of the foregoing, I concur with the findings, analysis and recommendations of the hearing panel and Department staff. I therefore recommend that the proposed acquisition be approved.

12/18/14
Date


Jonathan Cuttler
Hearing Officer

jc14-06/inoord

EXHIBITS LIST

In the Matter of the Acquisition of Control of Beacon Health Strategies, LLC and of ValueOptions of New Jersey, Inc. by Bain Capital Investors, LLC et al and by Diamond Castle Investors Group, et al

Form A Hearing on the Papers December 12, 2014

The following documents were submitted into the record on behalf of Bain Capital Investors, LLC et al and Diamond Castle Investors Group, et al pursuant to their application to acquire control of Beacon Health Strategies, LLC and ValueOptions of New Jersey, Inc.:

- DOBI 1 - Form A filing dated July 1, 2014 together with Exhibits 1-13, including Agreement and Plan of Merger dated May 23, 2014 and an Interest Acquisition Agreement dated May 23, 2014, pre and post organizational charts, New Beacon, LLC Agreement Term Sheet and financial statement of BVO Holdings, LLC
- DOBI 2 - NAIC affidavits
- DOBI 3 – Form A amendment filing dated September 22, 2014
- DOBI 4 – Supplemental letter (less exhibits) of October 10, 2014 from Mary Kathryn Roberts, Esq. of Riker, Danzig, Scherer, Hyland and Perretti, describing non-confidential business overview of Bain Capital and affiliated funds
- DOBI 5 – November 21, 2014 email from David Grosgold, Esq. of Debevoise Plimpton setting forth allocation of consideration and debt to New Jersey transactions
- DOBI 6 – Financial statements (redacted) of Diamond Castle Investors Group entities
- DOBI 7 – Financial statements (redacted) of Bain Capital Fund XI
- DOBI 8 -- Supplemental letter of December 2, 2014 letter from Mary Kathryn Roberts, Esq. of Riker, Danzig, Scherer, Hyland and Perretti, confirming certain post-closing commitments of Bain Capital Fund XI.
- DOBI 9 - December 3, 2014 letter from Mary Kathryn Roberts, Esq. of Riker, Danzig, Scherer, Hyland and Perretti waiving the requirement of a 20-day notice to each of the Applicants and the Acquired entities
- DOBI 10 - Affidavits of publication from the Trentonian, New Jersey Herald, Burlington Times, Courier-Post, Daily Journal and New Jersey Herald confirming publication at least 7 days in advance of the hearing date of the hearing that is the subject of this acquisition