

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE ACQUISITION)	
OF CONTROL OF SUPERIOR VISION OF)	HEARING OFFICER'S
NEW JERSEY, INC. BY FFL PARALLEL)	REPORT
FUND IV (DE-II), L.P.; FFL PARALLEL)	
FUND IV (DE), L.P.; FFL PARALLEL FUND)	
IV, L.P.; FFL EXECUTIVE PARTNERS IV,)	
L.P.; FFL INDIVIDUAL PARTNERS IV,)	
L.P.; FFL CAPITAL PARTNERS IV, L.P.;)	
FFL GP IV, L.P.; FFL GP IV, LLC; AND)	
FFL PARTNERS HOLDINGS, LLC)	

Procedural History

In accordance with N.J.S.A. 17:27A-2, by a filing dated January 30, 2018, as supplemented through May 24, 2018, by the entities hereinafter referred to collectively as the “FFL Funds”¹, FFL GP IV, L.P., a Cayman Islands exempted limited partnership that is the general partner of each of the FFL Funds (“FFL GP IV L.P.”); FFL GP IV, LLC, a Cayman Islands limited liability company that is the general partner of FFL GP IV L.P. (“FFL GP IV LLC”); and FFL Partners Holdings, LLC, a Delaware limited liability company that is the manager of FFL GP IV LLC (“FFL Holdings”), (collectively with the FFL Funds as “the applicants”) filed with the Department of Banking and Insurance (“Department”) an application

¹ FFL Funds is comprised of the following: FFL Capital Partners IV, L.P., a Cayman Islands exempted limited partnership (“FFL Capital”); FFL Individual Partners IV, L.P., a Cayman Islands exempted limited partnership (“FFL Individual”); FFL Executive Partners IV, L.P., a Cayman Islands exempted limited partnership (“FFL Executive”); FFL Parallel Fund IV, L.P., a Cayman Islands exempted limited partnership (“FFL Parallel”); FFL Parallel Fund IV, (DE), L.P., a Delaware limited partnership (“FFL Parallel DE”); FFL Parallel Fund IV, (DE-II), L.P., a Delaware limited partnership (“FFL Parallel DE II”)

to acquire control (“the Form A filing”) of Superior Vision of New Jersey, Inc. (“Superior Vision” or “the ODS”), a New Jersey domestic licensed organized delivery system².

The ODS is a direct, wholly-owned subsidiary of Superior Vision Benefit Management Corporation., a New Jersey corporation, which is a direct, wholly-owned subsidiary of Block Vision Holdings Corporation, a Delaware corporation, which is a direct, wholly-owned subsidiary of Superior Vision Corp., a Delaware corporation, which is a direct, wholly-owned subsidiary of Wink Holdco., Inc. (“Wink Holdco”), a Delaware corporation, which is a direct, wholly-owned subsidiary of Wink Parent, Inc., a Delaware corporation (“Wink Parent”).

In addition, certain investment funds in the Centerbridge III group of companies (“the Centerbridge Funds”) that are controlled by CCP III Cayman GP Ltd., a Cayman Islands exempted company (“CCP”), collectively own approximately 84.9 percent of the issued and outstanding voting securities of Wink Parent, and Highmark Inc. (“Highmark”) owns approximately 5.2 percent of the issued and outstanding voting securities of Wink Parent. No person other than Centebridge Capital Partners III, L.P., which is one of the Centerbridge Funds, owns 10 percent or more of the issued and outstanding voting securities of Wink Parent.

The purpose of this application is to seek regulatory approval by the Department for the applicants to acquire additional Wink Parent Voting Shares, so that they would own a total of approximately 23.1 percent of the Wink Parent Voting Shares, with the Centerbridge Funds ownership percentage being reduced to own 71.6 percent. This proposed acquisition of additional shares is proposed to occur pursuant to a Purchase Agreement, effective as of

² Pursuant to N.J.S.A. 17:48H-16(a) and N.J.A.C. 11:22-4.10, a licensed ODS organized under the laws of the State of New Jersey is treated as a domestic insurer for purposes of the Insurance Holding Company Systems Act, N.J.S.A. 17:27A-1 to -14.

December 1, 2017, by and among the FFL Funds and the Centerbridge Funds, as amended (the “Purchase Agreement”).

Pursuant to N.J.S.A. 17:27A-2(d), a public hearing was held on the Form A filing on June 13, 2018. 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-2(b). Public comments were accepted through the close of business on June 20, 2018, 2018. No comments were received. No other documents were required and the record was closed on June 21, 2018.

Findings of Fact

Superior Vision was formed on September 15, 2006, and commenced business in New Jersey on December 20, 2011. Superior Vision does not currently assume any risk despite licensure as an ODS.

The applicants stated that their ownership structure is as follows as set forth in the Form A filing.

FFL Partners, LLC (“FFL”) is a San Francisco-based equity firm primarily focused on investing in U.S. middle market companies. FFL was established in 1997, and it is primarily engaged in directing private equity investments in U.S. middle market companies through the financing of buyouts, growth initiative, and recapitalizations.

FFL Capital, FFL Parallel, FFL Parallel DE, FFL Parallel DE II and FFL Executive are investment funds in the fourth group of FFL private equity partnerships.

FFL GP IV L.P. is the general partner of each of the FFL Funds. Pursuant to the terms of each of the limited partnership agreements governing the FFL Funds, the management, control and operation of the relevant FFL Fund is vested exclusively in FFL GP IV L.P., as the general partner of that FFL Fund, and no limited partner of that FFL Fund shall take part in the conduct of the business of the Fund or in the management or control of the Fund's activities. As a result, control over each of the FFL Funds is exercised by FFL GP IV L.P., their general partner.

FFL GP IV LLC is the general partner of FFL GP IV L.P. Pursuant to the terms of each of the limited partnership agreements governing the FFL GP IV L.P., the management, control and operation of FFL GP IV L.P. is vested exclusively in FFL GP IV LLC, as its general partner, and no limited partner of FFL GP IV L.P. shall take part in the management or control of the FFL GP IV L.P. As a result, control over FFL GP IV L.P. is exercised by FFL GP IV LLC, its general partner.

FFL Holdings is the manager of FFL GP IV LLC. Pursuant to the terms of the LLC agreement governing FFL GP IV LLC, management and control of FFL GP IV LLC shall be vested in FFL Holdings, as its manager. As a result: (i) control over FFL GP IV LLC is exercised by FFL Holdings, its manager, and (ii) FFL Holdings is the ultimate controlling person of the applicants.

FFL Holdings is owned by seven individuals each of whom is a Managing Member of FFL Holdings. Each Managing Member has a single vote with respect to all FFL Holdings' decisions that require a vote, and all voting decisions with respect to FFL Holdings are taken via a majority (or, in certain cases, super majority) vote of the Managing Members. As a result, the applicants stated that none of the Managing Members individually controls FFL Holdings.

The applicants have no present plans to make any material changes in the business operations or corporate structure of management of the ODS. In addition, the applicants have no present plans for the ODS to declare an extraordinary dividend following the closing, to liquidate the ODS, to sell any of the ODS's assets (other than asset sales in the ordinary course of business), or to merge the ODS with any person. The applicants stated that through the acquisition of the additional shares, they will have the authority to appoint one member to the board of Wink Parent.

As set forth above, all of the outstanding shares of common stock of the ODS are currently indirectly owned by Wink Holdco, which, in turn, is a wholly-owned direct subsidiary of Wink Parent. As of the date hereof, certain investment funds in the Centerbridge III group of companies (the "Centerbridge Funds") that are controlled by CCP III Cayman GP Ltd., a Cayman Islands exempted company, collectively own approximately 84.9 percent of the issued and outstanding voting securities of Wink Parent (the "Wink Parent Voting Shares").

The applicants stated that, on December 1, 2017, after securing all appropriate regulatory approvals, WDV Acquisition Corp., a Delaware corporation that is a direct, wholly-owned subsidiary of Wink Holdco ("WDV Acquisition"), purchased from HVHC LLC ("HVHC"), a Delaware limited liability company that is a direct, wholly-owned subsidiary of Highmark Inc., a Pennsylvania nonprofit corporation ("Highmark"), all of the outstanding common stock of Davis Vision, Inc., a direct, wholly-owned subsidiary of HVHC ("Davis Vision") (the "Davis Vision Transaction"). As a result of the Davis Vision Transaction, the Superior Vision group of companies, including the ODS (the group of companies controlled by Superior Vision Corp., a direct subsidiary of Wink Holdco), and the Davis Vision group of companies (the group of companies controlled by WDV Acquisition, which is also a direct subsidiary of Wink Holdco)

became “sister” affiliated groups of companies owned by the same indirect parent, Wink Parent. In connection with the Davis Vision Transaction, two new investors acquired ownership interests in Wink Parent – (i) Highmark, in connection with the sale of Davis Vision by its subsidiary, HVHC, to WDV Acquisition, has acquired approximately 5.2 percent of the Wink Parent Voting Shares; and (ii) the applicants, as a new investor in Wink Parent, have collectively acquired approximately 9.9 percent of the Wink Parent Voting Shares. The applicants stated that no person other than Centerbridge Capital Partners III, L.P., which is one of the Centerbridge Funds, owns 10 percent or more of the issued and outstanding voting securities of Wink Parent.

As noted above, the purpose of this application is to seek regulatory approval by the Department for the applicants to acquire additional Wink Parent Voting Shares, so that they would own a total of approximately 23.1 percent of the Wink Parent Voting Shares. This proposed acquisition of additional shares is proposed to occur pursuant to a Purchase Agreement, effective as of December 1, 2017, by and among the FFL Funds and the Centerbridge Funds, as amended (the “Purchase Agreement”).

As described below, pursuant to the Purchase Agreement, the FFL Funds have agreed, among other things, to purchase an additional amount of approximately 13.2 percent of the Wink Parent Voting Shares from the Centerbridge Funds, and the Centerbridge Funds have agreed to sell such Wink Parent Voting Shares to the FFL Funds, subject to the terms and conditions of the Purchase Agreement, including the receipt of the requisite regulatory approvals. As a result of the transactions contemplated by the Purchase Agreement, it is contemplated that the applicants will collectively own approximately 23.1 percent of the Wink Parent Voting Shares. In addition the FFL Funds have entered into an Amended and Restated Stockholder Agreement, effective as of December 1, 2017, by and among the FFL Funds, Wink Parent, the Centerbridge Funds,

Highmark and certain other parties thereto (the “Stockholder Agreement”), pursuant to which, upon receipt of the requisite regulatory approvals and for so long as the FFL Funds hold at least three percent of the outstanding common stock of Wink Parent, the FFL Funds may designate one individual to serve on the seven-member Board of Directors of Wink Parent (with the size of such Board of Directors being subject to change, from time to time, pursuant to the Stockholder Agreement) (the “Wink Parent Board”) (the transactions described in this paragraph, collectively, the “Proposed Transaction”).

Following the completion of the Proposed Transaction, the Applicants will collectively own approximately 23.1 percent of the Wink Parent Voting Shares and will be able to designate a single individual to serve on the Wink Parent Board. The Centerbridge Funds will continue to own approximately 71.6 percent of the Wink Parent Voting Shares.³

The applicants stated that, pursuant to the Purchase Agreement, the FFL Funds have agreed, among other things, to purchase 176,146.07 Wink Parent Voting Shares from the Centerbridge Funds for the aggregate Purchase Price, subject to the terms and conditions of the Purchase Agreement, including the receipt of the requisite regulatory approvals. The applicants stated that the Purchase Price was funded by capital contributions from limited partners of certain of the applicants, and no portion of the Purchase Price was sourced from borrowed funds.

As reported in applicable financial statements, FFL in the aggregate had partner’s capital of approximately \$811,564,095 in 2016; \$552,418,639 in 2015 and \$13,975,721 in 2014. (The last years for which balance sheet information was available at the time of filing.) In addition,

³ Concurrently with the filing of this application, Highmark and its parent entity, Highmark Health, submitted to the Department a Form A filing to have the ability to exercise Highmark’s rights under the Stockholder Agreement to designate one individual to serve on the Wink Parent Board.

FFL had net before-tax net losses of approximately \$3,928,244 through the third quarter of 2017, \$32,378,282 in 2016 and \$19,790,080 in 2016.

Analysis

N.J.S.A. 17:27A-2(d)(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 ODS will continue to meet the requirements to transact the business for which it is presently licensed pursuant to Title 17 of the New Jersey Statutes. Superior Vision was formed on September 15, 2006, commenced business in New Jersey on December 20, 2011, and is currently licensed and in good standing. There is nothing in the record to indicate that after the proposed acquisition the ODS would not be able to continue to satisfy the requirements to transact the business for which it is presently licensed.

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

engaged in the insurance 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 market. See N.J.S.A. 17:27A-4.1(b)(2)(d). 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 ODS 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. As reported in the applicable financial statements filed by the applicants, FFL had partner's capital of approximately \$811,564,095 in 2016; \$552,418,639 in 2015 and \$13,975,721 in 2014, representing a 47 percent growth in capital for the last two years for which information was available, and indicating an ability of the funds to continue to attract capital.

Fourth, it appears that the financial condition of the applicants is such that they have been solvent on a generally accepted accounting principles basis for the period that they have been in existence. As set forth above, based upon the filing, FFL had substantial shareholders' equity, indicating it has been in a sound and viable financial condition for the relevant period. Although FFL had net before-tax losses in 2016 and 2015, as noted above, the hearing panel and Department staff do not believe that this provides a basis upon which the transaction should be disapproved. The ability of the funds to attract capital, a customary method of operation for such funds, represents significant financial strength and acceptable levels of solvency for the applicants and the nature of their investment in Wink Parent. Moreover, those losses were dramatically lessened through the third quarter of 2017 (the last period for which statements of operations were available). Finally, no debt will be incurred by the applicants in connection with the proposed acquisition. As noted above, the applicants will pay the amount of consideration

for the acquisition of the ODS from capital contributions from the limited partners of certain applicants. 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 ODS or sell its assets. As set forth above, the applicant intends to continue the current operations of the ODS with the addition of a designee to the board of the ODS' parent, with all rights and responsibilities such entails.

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 ODS are such that it would not be in the interest of the policyholders and of the public to permit the acquisition of control. The persons who will serve as officers and directors of the ODS are those presently in those positions with the ODS, with addition of a board designee to the ODS' parent, and there is no contemplated change in the day-to-day operations or business of the ODS. In addition, the persons who will operate the ODS have had substantial experience in the insurance business.

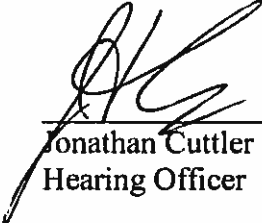
Seventh, there is nothing in the record from which it may be concluded that the acquisition is likely to be hazardous or prejudicial to the insurance buying public for the reasons set forth above.

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.

7/23/18
Date


Jonathan Cuttler
Hearing Officer

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STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

EXHIBIT LIST

IN THE MATTER OF THE ACQUISITION OF CONTROL OF SUPERIOR VISION OF NEW
JERSEY NEW JERSEY, INC.

BY

FFL CAPITAL PARTNERS IV, L.P.; FFL INDIVIDUAL PARTNERS IV, L.P.; FFL
EXECUTIVE PARTNERS IV, L.P.; FFL PARALLEL FUND IV, L.P.; FFL PARALLEL
FUND IV, (DE), L.P.; FFL PARALLEL FUND IV, (DE-II), L.P.; FFL GP IV, L.P.; FFL GP IV,
LLC; AND FFL PARTNERS HOLDINGS, LLC.

- Exhibit 1.....Form A application submitted January 30, 2018
- Exhibit 2.....Amendment Number One to Form A submitted March 19, 2018
- Exhibit 3.....Amendment Number Two to Form A submitted May 24, 2018
- Exhibit 4.....Waiver of 20 day notice of hearing, submitted by Cynthia Borrelli,
of Bressler, Amery and Ross, on behalf of the Applicants,
dated June 1, 2018
- Exhibit 5.....Waiver of 20 day notice of hearing, submitted by Cynthia Borrelli,
of Bressler, Amery and Ross, on behalf of Superior Vision of New Jersey,
dated June 1, 2018
- Exhibit 6.....Affidavit of Publication of Notice of Public Hearing for notice published in
the Trenton Times on Wednesday, June 6, 2018.
- Exhibit 7.....Affidavit of Publication of Notice of Public Hearing for notice published
in the Newark Star Ledger on Wednesday, June 6, 2018.
- Exhibit 8.....Affidavit of Publication of Notice of Public Hearing for notice published
in the Asbury Park Press on Wednesday, June 6, 2018.

Jc exhibits list sup vision ffl/orders