

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE ACQUISITION OF )  
CONTROL OF ARI CASUALTY COMPANY )  
BY LANCER FINANCIAL GROUP, INC. )

HEARING OFFICER'S  
REPORT

Procedural History

In accordance with N.J.S.A. 17:27A-2, by a filing dated June 6, 2019, and amended through September 16, 2019, Lancer Financial Group, Inc. (“LFG” or “the applicant”), an Illinois corporation, filed with the Department of Banking and Insurance (“the Department”) an application to acquire control (“the Form A filing”) of ARI Casualty Company (“ARI”), a New Jersey domiciled property and casualty insurer, which is currently dormant. ARI is a direct wholly-owned subsidiary of ARI Insurance Company, a Pennsylvania domiciled property and casualty insurer, which, in turn, is a direct wholly-owned subsidiary of ARI HoldCo., Inc., a Delaware corporation, which in turn, is a direct wholly-owned subsidiary of AmTrust Financial Services, Inc.

LFG is owned by David P. Delaney, Jr., (45.16 percent), Timothy D. Delaney, (45.16 percent) and Oxford Group, LLC (“Oxford”) (9.68 percent). These individuals also filed financial information with the Department related to their financial position.<sup>1</sup> David P. Delaney, Jr. is the Managing Member of Oxford, with the sole discretion to control Oxford pursuant to its Operating Agreement. LFG intends to acquire control of ARI by purchasing 100 percent of the issued and outstanding stock of ARI from its parent company, ARI Insurance Company, a Pennsylvania domiciled insurer. The purchase is pursuant to a securities purchase agreement dated May 9, 2019.

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<sup>1</sup> 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 -1 to -13.

Pursuant to N.J.S.A. 17:27A-2(d), a public hearing was held on the Form A filing on December 26, 2019. 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 allowed to be submitted through the close of business on December 26, 2019. No comments were received. No other documents were required, and the record was closed on December 26, 2019.

#### Findings of Fact

ARI was formed on August 27, 1979 and commenced business on October 5, 1979. ARI is presently in run-off, does not write any business, and has no policyholders in New Jersey. ARI has not reported any premium since 2011. Further, ARI cannot write or issue new policies until the Commissioner of the Department of Banking and Insurance (“Commissioner”) approves its continuation of active business pursuant to Consent Order A18-113, dated November 20, 2018.

ARI is authorized as a full line property and casualty company including surety and workers’ compensation insurance. On December 1, 2011, the Company entered into an assumption reinsurance novation with its affiliate, ARI Mutual Insurance Company (“ARI Mutual”) whereby all premiums and losses were ceded and assumed by ARI Mutual. ARI is no longer writing any business although it still maintains licenses in Delaware, Maryland, New Jersey, Pennsylvania, Virginia, and the District of Columbia.

LFG is an Illinois insurance holding company incorporated in 1985. LFG owns Lancer Insurance Company (“Lancer Insurance”), an Illinois domiciled property and casualty insurer, and Lancer Indemnity Company (“Lancer Indemnity”), a New York domiciled property and casualty

insurer. Lancer Insurance is licensed in all 50 states, Washington, D.C., and Puerto Rico and primarily writes commercial automobile business and commercial multiple peril business. Lancer Indemnity is admitted to transact business in 19 states and writes workers' compensation business in New Jersey.

LFG proposes to purchase 100 percent of the issued and outstanding stock from ARI's parent, ARI Insurance Company. The consideration shall be \$1,000,000 and the closing surplus of ARI. LFG states that the closing surplus of ARI is the surplus as regards policyholders of ARI as of the closing date of the transaction, calculated according to statutory accounting principles. As of December 31, 2018, ARI reported surplus as regards policyholders in the amount of \$8,614,244, and the applicant states that this amount is not anticipated to vary substantially by the date of closing. Accordingly, the purchase price is expected to be approximately \$9,600,000. There is no financing for payment of the consideration. LFG's sole source of funds will be a cash dividend from its subsidiary, Lancer Insurance, which shall be declared and paid on a date preceding the closing. LFG and its subsidiary, Lancer Insurance, have a common board of directors. After the purchase, ARI will be a direct and wholly-owned subsidiary of LFG.<sup>2</sup>

LFG also requests the rescission of Consent Order A18-113, dated November 20, 2018, which prohibits ARI from writing or issuing new policies until the Commissioner approves its continuation of active business.

According to the financial statements filed by LFG, it had total shareholder equity of \$217,048,289 in 2018; \$ 214,349,841 in 2017; and \$199,224,616 in 2016. In addition, in 2018, LFG had net income before taxes of \$14,507,110; in 2017, LFG had net income before taxes of \$24,696,139; in 2016 LFG had net income before taxes of \$26,718,474.

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<sup>2</sup> After the acquisition of ARI, LFG will likely request to change ARI's name to incorporate the Lancer brand. Lancer Insurance Company of New Jersey is the requested name.

### 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% 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, ARI will continue to meet the requirements to transact the business in property and casualty lines of insurance. As noted above, ARI is currently dormant and has no policyholders. There is nothing in the record to indicate that after the proposed transaction ARI 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 LFG's acquisition of ARI 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. ARI is currently inactive, though it maintains a license in New Jersey and is authorized as a full line property and casualty company including surety and workers' compensation insurance. It currently has no policyholders. LFG's subsidiary, Lancer Insurance writes commercial automobile business and commercial multiple peril business in New Jersey. LFG's subsidiary Lancer Indemnity writes workers' compensation business in New Jersey.

As LFG and its subsidiaries and ARI do not compete against each other 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 ARI will substantially lessen competition in New Jersey or tend to create a monopoly therein. Moreover, if ARI begins engaging in the insurance business, competition in the insurance market may increase.

Third, it does not appear that the financial condition of LFG will jeopardize the financial condition of ARI. According to the financial statements filed by LFG, it had total shareholder equity of \$217,048,289 in 2018; \$213,778,166 in 2017; and \$199,224,616 in 2016. In 2018, LFG had net income before taxes of \$14,507,110; in 2017, LFG had net income before taxes of \$24,696,139; in 2016 LFG had net income before taxes of \$26,718,474.

Fourth, it appears that the financial condition of LFG is such that it has been solvent on a basis of generally accepted accounting principles for the three-year period immediately prior to the date of the proposed acquisition. As set forth above, based upon the filing the applicant had substantial shareholders' equity for the most recent three-year period, indicating it has been in a sound and viable financial condition for the relevant period. As LFG is purchasing ARI with cash, debit will not be utilized to fund the consideration for the transaction. Accordingly, the requirement that the acquisition debt may not exceed 50 percent of the purchase price is satisfied.

Fifth, LFG intends to reactivate ARI into an operating property and casualty company in New Jersey. LFG has no plans to declare an extraordinary dividend, to liquidate ARI, or sell ARI's assets or merge it with any person or persons. The principal material change proposed for ARI is to change it from an inactive company to an operating insurer and write commercial automobile and commercial property and liability business in New Jersey.

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 ARI are such that it would not be in the interest of the policyholders and of the public to permit the acquisition of control. The officers and directors of ARI will be those holding similar positions in LFG, who have had substantial experience in the property casualty insurance business in the United States.

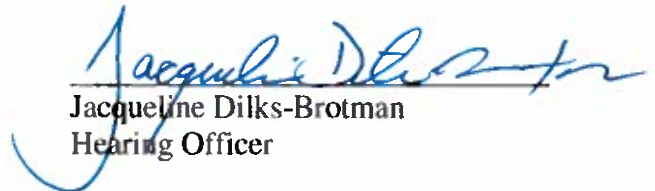
Seventh, there is nothing in the record from which it may be concluded that the acquisition is likely to be hazardous or prejudicial to the insurance buying public for the reasons set forth above.

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.

12/30/19  
Date

  
Jacqueline Dilks-Brotman  
Hearing Officer

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## **Exhibits List**

### **IN THE MATTER OF THE ACQUISITION OF CONTROL OF ARI CASUALTY COMPANY by LANCER FINANCIAL GROUP, INC.**

Exhibit 1 – Form A application dated June 6, 2019.

Exhibit 2 – Waiver of 20-day notice of hearing, dated December 16, 2019, submitted by Cynthia Borrelli, Bressler Amery Ross, P.C., for the Applicant.

Exhibit 3 – Waiver of 20-day notice of hearing, dated December 16, 2019 submitted by Cynthia Borrelli, Bressler Amery Ross, P.C., for ARI Casualty Company.

Exhibit 4 – Affidavit of Publication of Notice of Hearing in Star-Ledger, reflecting publication on December 19, 2019.

Exhibit 5 - Affidavit of Publication of Notice of Hearing in Asbury Park Press, reflecting publication on December 19, 2019.

Exhibit 6 – Affidavit of Publication of Notice of Hearing in the Trenton Times, reflecting publication on December 19, 2019.