

JUN 22 1999

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY Kahn

1
2
3
4 In the Matter of the Acquisition of Control of:)
5 AMERICAN RELIABLE INSURANCE)
6 COMPANY (NAIC No. 19615) and)
7 CONDEAUX LIFE INSURANCE COMPANY)
8 (NAIC No. 94625),)
9 Insurers,)
10 by)
11 FORTIS, INC.,)
12 Petitioner.)

Docket No. 99A-110-INS

ORDER

13
14 On June 18, 1999, the Office of Administrative Hearings, through Administrative Law
15 Judge Lewis D. Kowal, issued a Recommended Decision of Administrative Law Judge ("Recommended
16 Decision"), a copy of which is attached and incorporated by this reference. The Director of the
17 Department of Insurance has reviewed the Recommended Decision and enters the following Order:

- 18 1. The recommended Findings of Fact and Conclusions of Law are adopted.
19 2. The acquisition of control of the Insurers by the Petitioner shall be approved
20 subject to the express conditions as follows:
21 a. If the completed fingerprint cards furnished to the Department reveal that any of
22 Petitioner's officers or directors have been charged with or convicted of a felony or misdemeanor other
23

1 than minor traffic violations, the individual(s) shall be removed as an officer and/or director of the
2 Petitioner and/or Insurers within 30 days after notice to Petitioner by the Department and shall be
3 replaced with an officer or director acceptable to the Director.

4 3. Except as provided below, all information and documents relating to the Insurers
5 and Petitioner obtained by or disclosed to the Director, or any other person in the course of a filing, an
6 examination or investigation made pursuant to A.R.S. §§ 20-481.03 and 20-481.20, shall not be given
7 confidential treatment, shall be subject to subpoena and shall be made public documents, subject to
8 inspections, examination or copying by any person.

9 4. The fingerprint cards and biographical affidavits that Petitioner submitted to the
10 Department shall remain confidential pursuant to A.R.S. § 20-481.21.

11 5. The Petitioner shall advise the Director in writing of the effective date of the
12 change of control.

13 6. Until further notice from the Department, the Insurers shall file quarterly financial
14 statements following the effective date of the acquisition.

15 7. Upon consummation of this acquisition, the Insurers shall file a registration
16 statement in the form prescribed by A.R.S. § 20-481.10 and within the time period prescribed by A.R.S.
17 § 20-481.09 or § 20-481.13. If the registration statement would duplicate the information previously
18 submitted by the Petitioner in the statement filed with the Department pursuant to A.R.S. § 20-481.03
19 and there have been no material changes since the filing of that statement, then the Insurers shall submit
20 a statement to that effect incorporating by reference the statement previously filed with the Department
21 in lieu of a registration statement.

1 Office of Administrative Hearings
1400 W. Washington, Suite 101
2 Phoenix, AZ 85007

3 Steven R. Henry
Low & Childers, P.C.
4 2999 N. 44th Street, Suite 250
Phoenix, AZ 85018

5 Jerome A. Atkinson
6 Fortis, Inc.
One Chase Manhattan Plaza
7 New York, NY 10005

8
9 Kathy Linder

10
11
12
13
14
15
16
17
18
19
20
21
22
23

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Acquisition of
Control of
AMERICAN RELIABLE INSURANCE
COMPANY
(NAIC No. 19615) and CONDEAUX LIFE
INSURANCE COMPANY (NAIC No.
94625),

Insurers,

by

FORTIS, INC.,

Petitioner.

No. 99A-110-INS
RECOMMENDED DECISION
OF ADMINISTRATIVE
LAW JUDGE

HEARING: June 17, 1999

APPEARANCES: Steven R. Henry, Esq. on behalf of the Petitioner

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

On June 17, 1999, a hearing took place to consider the application for the acquisition of control of American Reliable Insurance Company and Condeaux Life Insurance Company ("Insurers") filed by Fortis, Inc. (the "Petitioner"), with the Arizona Department of Insurance (the "Department"), and for approval of Petitioner as the controlling person of the Insurers pursuant to the provisions of A.R.S. §§20-481 through 20-481.30, and A.A.C. R20-6-1402.

Based upon the entire record in this matter the following Findings of Fact, Conclusions of Law and Recommended Order are made:

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-9826

1
2 **FINDINGS OF FACT**

3 1. The Insurers are domestic insurers as referred to in A.R.S. §20-481.02.

4 2. The Petitioner has filed a statement as referred to in A.R.S. §§20-481.02 and
5 20-481.03, in the form required by A.A.C. R20-6-1402.

6 3. The Insurers, the security holder of American Reliable Insurance Company
7 and the Class A security holder of Condeaux Life Insurance Company waived the
8 hearing notice requirements of A.R.S. §20-481.07. Condeaux Life Insurance Company
9 provided notice of the hearing to its Class B security holders except for two security
10 holders for whom no record of address exists and who could not be located with
11 reasonable due diligence.

12 4. Petitioner and Insurers waived the notice requirements set forth in A.R.S.
13 §41-1092.05(D).

14 5. The evidence produced at the hearing established that the Petitioner's
15 acquisition of control of the Insurers:

- 16 a. Is not contrary to law;
- 17 b. Is not inequitable to the shareholders of the domestic insurers
18 involved;
- 19 c. Would not substantially reduce the security of and service to be
20 rendered to the policyholders of the Insurers in this State or elsewhere;
- 21 d. Would not substantially lessen competition in insurance in this state
22 or tend to create a monopoly; and
- 23 e. Is not likely to be hazardous or prejudicial to the insurance-buying
24 public.

25 6. The evidence at the hearing further demonstrated that :

- 26 a. After the change of control, the Insurers would be able to satisfy
27 the requirements for the reissuance of a certificate of authority to write the line or lines
28 of business for which they are presently licensed;
- 29
30

1 c. The plans or proposals that the Petitioner has to liquidate the
2 Insurers, sell their assets or consolidate or merge them with any person, or to make any
3 other material change in their business or corporate structure or management, are fair
4 and reasonable to policyholders of the Insurers and are in the public interest; and

5 d. The competence, experience and integrity of those persons who
6 would control the operation of the Insurers are such that it would be in the public
7 interest of policyholders of the Insurers and of the public to permit the merger or other
8 acquisition of control;

9 7. The Petitioner has furnished completed fingerprint cards and biographical
10 affidavits to the Department to enable the Department to determine if any of Petitioner's
11 officers or directors have been charged with or convicted of a felony or misdemeanor
12 other than minor traffic violations.

13 8. The Petitioner requested that the fingerprint cards and biographical
14 affidavits Petitioner submitted to the Department remain confidential. The Department
15 had no objection to Petitioner's request for confidentiality of those records.

16 9. Except as provided above, the interests of policyholders, shareholders or
17 the public will be served by the publication of all information and documents relating to
18 the Insurers and Petitioner, and obtained by or disclosed to the Director, or any other
19 person in the course of a filing, an examination, or investigation made pursuant to
20 A.R.S. §§20-481.03, 20-481.10 and 20-481.20.

21 10. Based upon its review of the Petitioner's Form A filing, the Department
22 represented its belief that the Petitioner's Form A filing is complete and in compliance
23 with Arizona law and recommended approval of this acquisition.

24 **CONCLUSIONS OF LAW**

25 1. The evidence of record established that none of the enumerated grounds
26 set forth in A.R.S. §20-481.07(A) exist so as to provide a basis for disapproval or
27 rejection of Petitioner's acquisition of control of the Insurers.
28
29
30

1 2. Petitioner presented credible evidence for approval of its acquisition of
2 control of the Insurers and for Petitioner to be a controlling person pursuant to the
3 provisions of A.R.S. §§20-481 through 20-481.30, and A.A.C. R20-6-1402.

4 **RECOMMENDED ORDER**

5 1. The acquisition of control of the Insurers by the Petitioner shall be
6 approved subject to the express conditions as follows:

7 a. If the completed fingerprint cards furnished to the Department
8 reveal that any of Petitioner's officers or directors have been charged with or convicted
9 of a felony or misdemeanor other than minor traffic violations, the individual(s) shall be
10 removed as an officer and/or director of the Petitioner and/or Insurers within 30 days
11 after notice to Petitioner by the Department and shall be replaced with an officer or
12 director acceptable to the Director

13 2. Except as provided below, all information and documents relating to the
14 Insurers and Petitioner obtained by or disclosed to the Director, or any other person in
15 the course of a filing, an examination or investigation made pursuant to A.R.S. §§20-
16 481.03 and 20-481.20, shall not be given confidential treatment, shall be subject to
17 subpoena and shall be made public documents, subject to inspection, examination or
18 copying by any person.

19 3. The fingerprint cards and biographical affidavits that Petitioner submitted
20 to the Department shall remain confidential pursuant to A.R.S. §20-481.21.

21 4. The Petitioner shall advise the Director in writing of the effective date of
22 the change of control.

23 5. Until further notice from the Department, the Insurers shall file quarterly
24 financial statements following the effective date of the acquisition

25 6. Upon consummation of this acquisition, the Insurers shall file a
26 registration statement in the form prescribed by A.R.S. §20-481.10 and within the time
27 period prescribed by A.R.S. §20-481.09 or §20-481.13. If the registration statement
28 would duplicate the information previously submitted by the Petitioner in the statement
29 filed with the Department pursuant to A.R.S. §20-481.03 and there have been no
30

1 material changes since the filing of that statement, then the Insurers shall submit a
2 statement to that effect incorporating by reference the statement previously filed with
3 the Department in lieu of a registration statement.

4 7. The failure to adhere to one or more of the above terms and conditions
5 shall result without further proceedings in the suspension or the revocation of each of
6 the Insurers' certificate of authority.

7 Done this day, June 18, 1999

8 
9 _____
10 Lewis D. Kowal
11 Administrative Law Judge

12 Original transmitted by ^{fax} mail this
13 18th day of June, 1999, to:

14
15
16 Department of Insurance
17 Mr. Charles R. Cohen
18 2910 North 44th Street, Ste. 210
19 Phoenix, AZ 85018

20 ATTN: Curvey Burton

21
22 By 
23 _____
24
25
26
27
28
29
30