

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE STATE AUDITOR
STATE OF MONTANA**

IN THE MATTER OF THE)	CASE NO. INS-2009-91
VOLUNTARY DISSOLUTION OF)	
U.S. FIDELIS INSURANCE COMPANY)	FINDINGS OF FACT,
RISK RETENTION GROUP, INC.)	CONCLUSIONS OF
)	LAW AND FINAL ORDER
)	

Pursuant to a Notice of Hearing dated March 4, 2010, a contested case hearing was conducted by Hearing Examiner Carol Roy, as designee of the Commissioner of Securities and Insurance, on April 9, 2010, at 1:00 P.M. at the Office of the State Auditor, 840 Helena Ave., Helena, Montana.

At the hearing, Jesse Laslovich, Chief Legal Counsel for the Commissioner of Securities and Insurance, Office of the State Auditor (CSI), represented the Department of Insurance. Kathryn J. Bell represented U.S. Fidelis Insurance Company Risk Retention Group, Inc.

Testimony was presented on behalf of the Department of Insurance from Steven W. Matthews, Chief Financial Examiner.

The following documents were offered on behalf of the Department of Insurance without objection and received into evidence: Action by Unanimous Consent of the Board of Directors of U.S. Fidelis Insurance Company Risk Retention Group, Inc. (Exhibit A); Action by Unanimous Consent of the Shareholders of U.S. Fidelis Insurance Company Risk Retention Group, Inc. (Exhibit B); Report of Voluntary Dissolution

Examination of U.S. Fidelis Insurance Company Risk Retention Group, Inc. (Exhibit C); and the Annual Statement for Year Ended December 31, 2009, of the Condition and Affairs of the U.S. Fidelis Insurance Company Risk Retention Group, Inc. (Exhibit D).

From the testimonial and documentary evidence presented, the Hearing Examiner makes the following:

FINDINGS OF FACT

1. On October 26, 2009, Fidelis submitted to the CSI a Plan of Voluntary Dissolution pursuant to Mont. Code Ann. § 33-3-601 (2007).
2. The CSI conducted an examination of Fidelis and in February of 2010 submitted a report summarizing its findings and conclusions.
3. At the hearing Steve Matthews, Chief Financial Examiner for the office of the CSI, testified that Fidelis is 100% owned by The Association of Service Contract Administrators, Inc. (ASCA), which is owned by US Fidelis Administration Services, Inc.
4. Mr. Matthews also testified as follows:
 - a. Fidelis was incorporated on April 12, 2007, pursuant to Montana law, and granted its certificate of authority on April 18, 2007, which allowed Fidelis to write casualty insurance in Montana.
 - b. Fidelis also had federal status as a risk retention group and became registered as a risk retention group in various other states.
 - c. CSI approved Fidelis' request to amend its certificate of authority to a captive risk retention group, and on January 22, 2009, Fidelis' license was reissued to reflect that change.

- d. From the company's inception in 2007 until March 2008, Fidelis insured contractual liability risk covering new and used vehicle warranty administrators for their liabilities arising under vehicle service contracts.
- e. During Fidelis' operational period, it incurred no losses from the risks it insured.
- f. In March of 2008, Fidelis notified the CSI that Fidelis wished to execute a reinsurance assumption and novation agreement with Wesco Insurance Company, Inc. (Wesco), which resulted in the release of Fidelis from all claims pertaining to policies assumed by Wesco.
- g. As a result of the assumption and novation agreement, Wesco was substituted for Fidelis and assumed all liabilities and obligations pertaining to the reinsured policies.
- h. Fidelis has no remaining insurance liabilities and has been in a dormant status since early 2008.

5. After notifying the CSI of its plan to voluntarily dissolve, Fidelis submitted its plan of voluntary dissolution to its policyholders within 60 days of October 26, 2009.

6. On December 22, 2009, the board of directors for Fidelis signed the certificate of adoption of the resolution, which recommended to ASCA that the company be dissolved.

7. ASCA accepted the board's recommendation and approved the dissolution of the company.

8. The financial examination conducted by the CSI showed that as of September 30, 2009, Fidelis had \$773,745 in total assets and \$208,384 in total liabilities.

9. Fidelis' 2009 annual statement also showed that as of December 31, 2009, Fidelis had \$766,079 in total assets and \$218,110 in total liabilities.

10. Since Fidelis is solvent, the CSI's examination concluded that Fidelis met the requirements of Title 33, Chapter 3, Part 6, of the Montana Code Annotated, to voluntarily resolve and as such, recommended that the CSI approve Fidelis' request to voluntarily dissolve.

11. An opportunity for public comment was given and no member of the public commented.

CONCLUSIONS OF LAW

1. The State Auditor is the Commissioner of Insurance (Commissioner) pursuant to Mont. Code Ann. § 2-15-1903.

2. The Department of Insurance (Department) is under the control and supervision of the Commissioner pursuant to Mont. Code Ann. §§ 2-15-1902 and 33-1-301.

3. The Commissioner shall administer the Department to protect insurance consumers. Mont. Code Ann. § 33-1-311(3).

4. The Commissioner and the Department have jurisdiction over this matter. Mont. Code Ann. § 33-1-311.

5. At least 60 days before an insurer submits a proposed voluntary dissolution to its policyholders, the insurer must file the plan for dissolution with the Commissioner. Mont. Code Ann. § 33-3-601.
6. If the policyholders approve the resolution, the Commissioner shall begin to examine the insurer. Mont. Code Ann. § 33-3-601.
7. The Commissioner shall approve the dissolution unless, after a hearing, the Commissioner finds the insurer is insolvent or may become insolvent in the process of dissolution. Mont. Code Ann. § 33-3-601.
8. If the Commissioner approves the dissolution, the insurer may dissolve under Mont. Code Ann. §§ 35-1-931-935, except that Mont. Code Ann. § 35-1-938(4) does not apply.
9. The papers required to be filed with the Montana secretary of state must instead be filed with the Commissioner.
10. On October 26, 2009, Fidelis submitted its plan of voluntary dissolution with the Commissioner.
11. Within 60 days of submitting its plan to the Commissioner, Fidelis submitted the plan of voluntary dissolution to its policyholders for approval.
12. The sole shareholder, ASCA, approved the resolution to voluntarily dissolve.
13. Subsequently, the CSI examined Fidelis and concluded that Fidelis had no insurance liabilities and was not insolvent.
14. Since Fidelis is not insolvent and will not become insolvent in the process of dissolving, the Commissioner shall approve the request to voluntarily dissolve.

ORDER

THEREFORE, IT IS HEREBY ORDERED that based on the foregoing, Fidelis' request for voluntary dissolution is APPROVED.

IT IS FURTHER ORDERED that Fidelis shall dissolve pursuant to the provisions of Mont. Code Ann. §§ 35-1-931-935, except that Mont. Code Ann. § 35-1-938(4) does not apply.

IT IS FURTHER ORDERED that the papers required to be filed with the Montana secretary of state must instead be filed with the office of the Commissioner of Securities and Insurance. The filing fee to submit articles of dissolution is \$15. Fidelis shall make the check payable to the Montana Secretary of State, but shall submit the check to the CSI with the papers that are required to be submitted to the CSI pursuant to this Order.

IT IS FURTHER ORDERED that Fidelis submit to the CSI its Montana certificate of authority within ten days of filing its dissolution papers with the CSI.

DATED this 3rd day of May, 2010.



CAROL ROY
Designee of the Commissioner of Securities
and Insurance, Montana State Auditor

cc. Kathryn J. Bell
Jesse Laslovich