

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

IN THE MATTER OF:

**FORM A STATEMENT REGARDING THE ACQUISITION OF CONTROL
OF THE HANOVER NEW JERSEY INSURANCE COMPANY
BY XLNT HOLDCO, INC.**

Docket No: INS-22-057-AP

ORDER

A. Procedural History

On September 14, 2022, XLNT Holdco Inc. (“XLNT” or “Applicant”) submitted a Form A Statement. The Applicant seeks approval for the acquisition of control of the New Hampshire-domiciled insurance company The Hanover New Jersey Insurance Company (“HNJIC” or “Insurer”). The Applicant proposes to acquire control of the Insurer by purchasing its stock from its owner, The Hanover Insurance Company (“Hanover”). The Applicant filed an amendment to the Form A statement on November 17, 2022.

A public hearing on the proposed acquisition of control was held on January 12, 2023. At the hearing, the Applicant presented the testimony of Craig Poulton, Chief Executive Officer of XLNT, by telephone pursuant to the January 5, 2023 order allowing Mr. Poulton to testify remotely. Dianne Nergaard, President of XLNT, and Ken Soldwedel, Secretary of XLNT, were present. In addition, Amy Mass, Vice President and Assistant Secretary for HNJIC and its sole shareholder, Hanover, testified for Hanover. Finally, Douglas Bartlett, Director of Financial Regulation, testified on behalf of the New Hampshire Insurance Department’s Analysis Team (“Department Analysis Team”).

At the hearing, the Applicant submitted six exhibits (Applicant's Exhibits 1-6), which included the Form A Statement, as Applicant's Exhibit 1; the amendment to the Form A Statement, as Applicant's Exhibit 2; and the pre-filed testimony of Mr. Poulton, as Applicant's Exhibit 6. Hanover submitted the pre-filed testimony of Amy Mass as Hanover Exhibit 1. The Department Analysis Team also submitted a memorandum outlining the team's analysis and recommendation regarding the Form A submission as Department Analysis Team Exhibit 1. There were no objections to these exhibits, and all eight were admitted into evidence during the hearing.¹

B. Findings of Fact

1. Proper notice was given of the hearing pursuant to RSA 401-B:3, VI(b).
2. HNJIC is a New Hampshire-domiciled stock property and casualty insurance company with its statutory home office in Bedford, New Hampshire and its executive office in Worcester, Massachusetts. It is licensed in New Hampshire and New Jersey. HNJIC has no in-force business. Its last policy expired in January 2012 and its last open claim was resolved in November 2021.
3. HNJIC is owned by The Hanover Insurance Company ("Hanover"), a New Hampshire domiciled insurance company. NHJIC's pre-transaction business was reinsured with Hanover.
4. The Applicant, XLNT, is a Utah corporation with its principal business address in Salt Lake City, Utah. XLNT was recently formed and is owned by BAM FAM Group I LLC "BAM FAM"), a Utah limited liability company. BAM FAM is managed by Craig Poulton of

¹ Subsequently, on January 13, 2023, the Department Analysis Team submitted a "Proposed Order" for consideration, which the parties discussed at the close of the hearing and the Commissioner said he would permit for consideration if such a submission was received soon after the hearing.

Salt Lake City, Utah, and its members are entities affiliated with Mr. Poulton's family. Mr. Poulton is the founder of Poulton Associates, LLC ("PAL"), a Utah limited liability corporation that operates as a managing general agent for a large book of business.

5. XLNT has no business operations and was formed as a holding company to acquire ownership of the Insurer. It is the assignee of the rights of the Spearmint Specialty Holding Company LLC ("Spearmint"), the original buyer, under the Stock Purchase Agreement between Spearmint and Hanover.

6. As set forth in the Form A Statement and its exhibits, the Applicant proposes to acquire control of the Insurer pursuant to a Stock Purchase Agreement between Hanover and Spearmint dated December 15, 2021 (the "Purchase Agreement"). The Applicant is the assignee of Spearmint's rights and obligations as Buyer under the Purchase Agreement, pursuant to an Assignment between Hanover, Spearmint, and Applicant, dated November 21, 2022. Spearmint has no further role in the transaction and will have no interest in XLNT or the Insurer after the closing of the acquisition.

7. Pursuant to the Purchase Agreement, Applicant will acquire all of the shares of the Insurer from Hanover for an amount equal to \$225,000 plus the admitted assets of the Insurer at the time of closing. The admitted assets at the time of closing will equal the statutory minimum capital and surplus required by New Hampshire and New Jersey. The required closing date in the Purchase Agreement has been extended by agreement through the end of January, 2023.

8. The Applicant is pursuing the proposed acquisition of the Insurer because it sees a business opportunity to provide insurance coverage to legal cannabis-related businesses.

9. The Purchase Agreement is subject to satisfaction or waiver of several closing conditions, including (1) approval of the New Hampshire Insurance Department, (2) Hanover obtaining approval for and implementing the reinsurance arrangements necessary for the Insurer to be sold as a “clean shell”, and (3) execution of the Amended and Restated Reinsurance Agreement and the Assumption and Administration Agreement described below. Pursuant to these agreements, the Seller (Hanover) will assume all of the rights, liabilities and obligations of the Insurer for pre-closing HNJIC insurance policies, as well as certain other assigned assets and assumed liabilities, and will administer any remaining pre-closing HNJIC business.

10. The nature and amount of the consideration to be paid for the Insurer was determined based on an arm’s length negotiation between Spearmint and Hanover later agreed to by the Applicant as assignee. The aggregate purchase price will be paid in cash by the Applicant. No debt financing will be used.

11. After the proposed acquisition, the Applicant intends to change the name of the Insurer to XLNT Insurance Company and file appropriate documents with regulators. The Applicant intends that the Insurer seek to obtain licenses from several additional states in order to write commercial property casualty business in a number of states focusing on cannabis-related businesses. After the closing, the Insurer will have approximately \$6.275 million in paid-in surplus. The Applicant recognizes that additional capital will be necessary to obtain the additional licenses and to support its business as proposed in its business plan. Mr. Poulton will supply or pursue additional capital.²

12. The Insurer will be managed by Mr. Poulton and a new board and management team including Diane Nergaard and Ken Soldwedel. The Insurer will enter an Administrative

² If outside funding is deemed necessary and involves a sale of an interest in XLNT or the Insurer above statutory thresholds, the sale would be subject to the requirements of RSA 401-B:3.

Services Agreement with Poulton Associates LLC, which will provide administrative services such as accounting, systems, and underwriting support. Claims services will be provided by a third-party administrator.

13. The Applicant contemplates that the Insurer will enter into a reinsurance agreement with various reinsurers to reinsure a substantial quota share of its business. Hannover Reinsurance Company (“Hannover Re”) has committed to participate as lead reinsurer with a substantial share of the reinsurance.

14. The former business of HNJIC will continue to be administered and 100% reinsured by Hanover under an Amended and Restated Reinsurance Agreement and an Assumption and Administration Agreement. Drafts of these agreement were submitted with the Form A Statement and reviewed by the Department Analysis Team.

15. The Applicant has no plans to liquidate the Insurer, sell any Insurer’s assets, merge or consolidate the Insurer with any other person, pay any extraordinary dividend or to make any material change in the Insurers’ business operations or corporate structure or management, except as described herein.

16. The Insurer has no in-force business, and Mr. Poulton and the Applicant do not control any insurance company.

C. Conclusions of Law

The New Hampshire Holding Company Act, RSA 401-B:3, provides that the Commissioner “shall approve any merger or other acquisition of control . . . unless, after a public hearing, the commissioner finds” that one or more of six conditions exist. See RSA 401-B:3, VI(a). Those potential disqualifying findings are set forth in RSA 401-B:3, VI(a)(1)-(6), as here:

- (1) 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;
- (2) The effect of the merger or other acquisition of control would substantially decrease competition in insurance in this state or tend to create a monopoly [referring to the information and standards of RSA 401-B:3-a];
- (3) 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;
- (4) 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;
- (5) 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 the public to permit the merger; and
- (6) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

None of the six conditions specified in RSA 401-B:3 are supported in the record. Based on the evidence presented, I find that:

1. After the acquisition of control, the Insurer will continue to be qualified to write the lines of business for which it is presently licensed.
2. The acquisition of control (a) will not substantially decrease competition in insurance business in the State of New Hampshire and (b) will not tend to create a monopoly therein.
3. The financial condition of the Applicant will not jeopardize the financial stability of the Insurer or prejudice the interest of its policyholders.
4. The Applicant's plans for the Insurer are not (a) unfair or unreasonable to policyholders of the Insurer or (b) against the public interest.

5. The competence, experience, and integrity of those persons who would control the operation of the Insurer are not against the interest of the policyholders of the Insurer or the public.

6. With the conditions outlined below, the proposed acquisition of the Insurer by XLNT is unlikely to be hazardous or prejudicial to the insurance buying public.

I conclude, therefore, that the application to acquire control of the Insurer should be approved subject to certain conditions, as set forth below.

ORDER

Accordingly, it is hereby ORDERED that the acquisition of control of The Hanover New Jersey Insurance Company by XLNT Holdco Inc. is APPROVED, subject to these four (4) conditions:

- A. The Applicant shall submit a certification that the closing has occurred and that the Applicant has acquired ownership of the Insurer to the Department promptly after the closing. The certification shall include confirmation that the Amended and Restated Reinsurance Agreement and the Assumption and Administration Agreement with Hanover in the form submitted with the Form A Statement are in effect.
- B. The Applicant shall submit the amendments to the articles of incorporation and by-laws effecting the Insurer's name change to the Department promptly after the Closing.
- C. The Insurer must have capital of at least \$25 million (consisting of cash and investments held free and clear by the Insurer not pledged or the subject of any

loan or debt obligation) before it writes any insurance policies. The Insurer shall submit a certification and documentation showing that it has the required capital to the Department before it writes any insurance policies.

- D. The reinsurance program described in the Form A Statement must be in effect at the time the Insurer begins to write insurance policies. The Insurer shall submit a certification that the reinsurance is in effect to the Department before it writes any insurance policies.

SO ORDERED.

Dated: January 23, 2023

A handwritten signature in blue ink, reading "Christopher R. Nicolopoulos", written over a horizontal line.

Christopher R. Nicolopoulos, Commissioner