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CLERK OF THE SHAWNEE COUNTY DISTRICT COURT
CASE NUMBER: SN-2023-CV-000494
PII COMPLIANT



Court: Shawnee County District Court
Case Number: SN-2023-CV-000494
Case Title: Vicki Schmidt Commissioner of Insurance
vs.
MutualAid eXchange
Type: Order Approving Stock Purchase Agreement

SO ORDERED.

A handwritten signature in blue ink, appearing to read "J. Befort", is written over a faint circular stamp.

/s/ Honorable Jay Befort, District Court Judge

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION 15**

| | | |
|----------------------------------|---|----------------------|
| VICKI SCHMIDT, |) | |
| COMMISSIONER OF |) | |
| INSURANCE, |) | |
| <i>In her Official Capacity,</i> |) | |
| |) | |
| Petitioner, |) | |
| |) | Case No. 2023 CV 494 |
| vs. |) | |
| |) | |
| MUTUALAID EXCHANGE, |) | |
| |) | |
| Respondent. |) | |

ORDER APPROVING STOCK PURCHASE AGREEMENT

Now on this date, the Court being fully advised does approve the sale of all of the issued and outstanding stock (the “**Stock**”) of MAX Insurance Agency, Inc., a Kansas corporation (“**MAXIA**”), to MAXIA Group, LLC (“**Buyer**”), pursuant to a Stock Purchase Agreement (the “**Agreement**”), between the Liquidator of MutualAid eXchange (“**MAX**”) and the Buyer.

BACKGROUND

1. On August 8, 2023, this Court granted plaintiff’s Petition for Rehabilitation, and appointed Vicki Schmidt, the Commissioner of Insurance and her successors in office as Rehabilitator of MAX, and Jodi Adolf and Bruce Baty as Special Deputy Receivers (“**SDRs**”) of MAX.

2. On August 22, 2023, this Court entered a Final Order and Judgment of Liquidation of MutualAid eXchange (“**Liquidation Order**”). The Liquidation Order found MAX to be insolvent and terminated the rehabilitation proceedings. The Court

appointed Vicki Schmidt, the Commissioner of Insurance and her successors in office as Liquidator of MAX, and Jodi Adolf and Bruce Baty as SDRs.

3. Pursuant to the Liquidation Order and the Act, the Liquidator acts for and on behalf of MAX and is vested by operation of law with title to all of the property, contracts, rights of action, books and records of MAX, including its wholly-owned subsidiary MII Management, Inc., a Kansas corporation (“**MIIMG**”), and MIIMG’s wholly-owned subsidiary, MAXIA, and is administering them under the general supervision of the Court.

4. Pursuant to paragraph 6 of the Liquidation Order, the Liquidator is authorized and empowered to exercise all powers now held or hereafter conferred upon receivers by the laws of the State of Kansas not inconsistent with the provisions of the Act, including, but not limited to, *inter alia*:

d. **Management of MAX.** The Liquidator shall have all the powers of the officers, directors, trustees, managers, and employees, whose authority shall be suspended.

e. **Property.** The Court authorizes and further directs the Liquidator to secure and take possession of all the assets, property, books, records, accounts and other documents of MAX and to administer such assets under the general supervision of this Court. Pursuant to K.S.A. 40-3622(a), the Court hereby vests the Liquidator with the title to all of the property, contracts, rights of action, books and records of MAX, including its wholly-

owned subsidiaries MII Management, Inc. and Max Insurance Agency, Inc., wherever located, as of the entry of this Liquidation Order.

* * *

j. **Sales of Property.** The Liquidator is authorized to conduct public and private sales of the property of the insurer and its wholly-owned subsidiaries; to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon or otherwise dispose of or deal with, any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable; and to execute, acknowledge and deliver any and all deeds, assignments, releases and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the liquidation.

* * *

m. **Contracts.** The Liquidator is authorized to enter into such contracts as are necessary to carry out the order to liquidate . . .

5. In August 2023, the Liquidator and the SDRs initiated a competitive bidding process for the disposition of the Stock, pursuant to which Liquidator and the SDRs identified eight potential bidders for MAXIA. During the course of the bidding process, Liquidator entered into non-disclosure agreements with six of the potential bidders. After Liquidator's receipt of executed non-disclosure agreements from each bidder, Liquidator and SDRs (i) provided such bidders with access to a data room containing material information related to MAXIA, (ii) provided such bidders with a

process letter (each, a “**Process Letter**”) soliciting letters of intent for the purchase of the Stock, and (iii) held informational meetings, and otherwise corresponded with, each bidder regarding MAXIA and the proposed transaction. The Process Letters required each bidder to provide a letter of intent (each, a “**Letter of Intent**”) to the SDRs by September 15, 2023 and specify within the Letter of Intent the terms of their proposal including, among other items, the purchase price, the transaction structure, financing sources due diligence requirements, approval process and a timeline to complete diligence and consummate the transactions contemplated by the Agreement.

6. By September 15, 2023, the Liquidator and the SDRs received Letters of Intent to purchase MAXIA from four bidders. The Liquidator and the SDRs evaluated and discussed each of the Letters of Intent on September 18, 2023. The criteria used to evaluate the Letters of Intent included, among others, the purchase price amount, the financing sources (i.e., whether the sale will be funded by cash on hand or via a lending process), and the timeline for consummating the transaction. Buyer’s Letter of Intent was the second highest offer with respect to the purchase price but had higher deal certainty due to the all-cash nature of the offer and also had the most expedited closing timeline of all the Letters of Intent. The Liquidator and the SDRs decided to accept the Letter of Intent proposal from Buyer with certain modifications, including the increase of purchase price paid at closing and a corresponding decrease of withheld purchase price for indemnification purposes with regard to any undisclosed liabilities. The SDRs and Buyer agreed to the revised terms, and executed the revised Letter of Intent, on September 19, 2023.

7. Following the execution and delivery of Buyer's Letter of Intent, the Liquidator, SDRs and Buyer, as subsequently assigned per the Letter of Intent, conducted a due diligence process and negotiated the Agreement.

8. The Liquidator and Buyer desire to execute the Agreement and consummate the transactions contemplated by the Agreement on or around October 16, 2023.

THE AGREEMENT

9. The terms of the Agreement were carefully analyzed and negotiated by the Liquidator and Buyer, along with their respective attorneys. The Liquidator believes that the Agreement is in the best interest of the parties and MAX's creditors.

THE AGREEMENT IS IN THE BEST INTERESTS OF MAX AND ITS CREDITORS

10. Based upon the analysis of the terms of the Agreement and the evaluation of the transactions contemplated thereby as a whole by the Liquidator's staff and advisors, the Liquidator believes that the Agreement is fair and reasonable to MAX and its creditors. There are several specific advantages to MAX and its creditors arising from the consummation of the transactions contemplated by the Agreement.

11. Pursuant to the Liquidation Order and K.S.A. § 40-3605 *et seq.*, the Liquidator was directed to liquidate MAX.

12. The Agreement liquidates MAXIA for a cash purchase price, which will inure to the benefit of the creditors of the liquidation estate (the "Estate").

13. MAXIA is licensed in more than 28 states and has historically produced business for carriers other than MAX, including the bundling of MAX policies with such carriers. The value of MAXIA will diminish if it remains under the ownership and control

of MAX as policyholders will find replacement insurance policies (including such bundled policies) with other carriers.

14. The Liquidator has been obligated to maintain staff and oversight for the ongoing operations of MAXIA. This obligation and the expenses associated therewith shall no longer be borne by the Estate upon sale of MAXIA.

15. The sale of MAXIA will therefore result in a decrease in Estate operating costs and the liquidation of a substantial asset of the Estate.

The Court finds:

1. The Agreement is fair and reasonable to MAX and its creditors;
2. The terms and conditions of the transaction contemplated by the Agreement are approved;
3. The conduct and actions of the Liquidator, including her employees, agents and counsel, in connection with the Agreement, are affirmed and approved in all respects;
4. The parties are authorized to enter other and further documents as may be necessary to effectuate the transaction without further approval of the Court; and
5. There is no just reason for delay and this Order constitutes a final judgment fully resolving all issues relating to the Agreement.

IT IS SO ORDERED. THIS ORDER IS EFFECTIVE ON THE DATE AND TIME SHOWN ON THE ELECTRONIC FILE STAMP.

Prepared by:
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