

TO: PETITIONERS
 YOU ARE HEREBY NOTIFIED TO FILE A
 WRITTEN RESPONSE TO THE ENCLOSED
NEW MATTER WITHIN 30 DAYS FROM
 SERVICE HEREOF OR A JUDGMENT MAY
 BE ENTERED AGAINST YOU.
 BY Zella Smith Anderson
 ZELLA SMITH ANDERSON
 COUNSEL FOR DEFENDANT

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Kingsway Financial Services Inc. and	:	
Kingsway America, Inc.,	:	
	:	
Plaintiffs,	:	
	:	Docket No. 609 M.D. 2009
v.	:	
	:	
Commonwealth of Pennsylvania,	:	
Insurance Department,	:	
	:	
Defendant.	:	

**ANSWER AND NEW MATTER OF THE COMMONWEALTH OF
 PENNSYLVANIA, INSURANCE DEPARTMENT, TO THE ACTION FOR
 DECLARATORY JUDGMENT OF
 KINGSWAY FINANCIAL SERVICES, INC. AND
 KINGSWAY AMERICA, INC.**

The Commonwealth of Pennsylvania, Insurance Department
 (“Department”), answers the Action for Declaratory Judgment filed by Kingsway
 Financial Services, Inc. and Kingsway America, Inc. (collectively “Kingsway”), as
 follows:

PARTIES

1. Admitted.
2. Admitted.

3. Denied as stated. The Department is an agency of the Commonwealth of Pennsylvania established pursuant to The Insurance Department Act of 1921, 40 P.S. §§ 1 *et seq.* Stating further, among other things, the Department is charged with regulating insurers in insurance holding company systems under the Insurance Holding Companies Act, 40 P.S. §§ 991.1401 – 991.1413 (the “Act”).

JURISDICTION

4. Admitted.

FACTS

Kingsway’s Business and Corporate Structure

5. Admitted upon information and belief.

6. Admitted in part, denied in part. The Department admits only that Kingsway America, Inc. is a wholly owned subsidiary of Kingsway Financial Services, Inc., Walshire Assurance Company (“Walshire”) is a wholly-owned subsidiary of Kingsway America, Inc., and that Lincoln General Insurance Company (“Lincoln General”) is a wholly-owned subsidiary of Walshire. By way of further response, on October 19, 2009, Kingsway illegally attempted to divest 100 percent of the stock of Walshire in five percent increments to 20 unsuspecting charities in order to rid itself of Lincoln General, because Lincoln General was experiencing financial difficulties (“divestiture transaction”). Stating further, because Kingsway’s divestiture scheme is in violation of the Act and the GAA Amendments Act, 40 P.S. § 21205 (the “G4A”), on November 20, 2009, the

Department filed a Petition for Review at Docket No. 611 M.D. 2009 asking this Court to declare the transaction illegal and unwind it.

7. Admitted.

Lincoln's Financial Distress and Run-Off Plan

8. Admitted. Stating further, Kingsway acquired control of Lincoln General in 1998 by means of a Form A filing under the Act. A true and correct copy of the Commissioner's Decision and Order approving Kingsway's Form A filing is attached as Exhibit A. Stating further, the Department admits upon information and belief that Lincoln General is Kingsway's largest indirect subsidiary.

9. Admitted. Stating further, after its acquisition by Kingsway in 1998, Lincoln General's net written premiums increased from \$33 million in 1999 to a high of \$1 billion in 2004. Stating further, Lincoln General began experiencing financial distress in 2005, due to Kingsway's ineffective management. By way of further response, Lincoln General's surplus diminished from \$160,380,582 in 2004 to \$79,227,960 in 2008 and \$6,683,340 as of September 30, 2009.

10. Denied as stated. The Department denies that Kingsway paid \$300 million solely to fund Lincoln General's reserve deficiencies. Rather, Kingsway paid exactly \$284,300,000 to fund Lincoln General's reserve and other deficiencies. The remaining allegations the Department denies as vague. Stating further, Lincoln General continued to experience net underwriting losses and net losses on an annual basis from 2006 up to and including September 30, 2009.

11. Admitted in part, denied in part. The Department admits only that it consulted with Kingsway and Lincoln General in late 2008 and discussed the run-off of Lincoln General. The Department denies that as a result of that meeting the Department decided that Lincoln General should be run-off or that the run-off would be managed by a firm not related to Kingsway. Stating further, the Department is without knowledge or information sufficient to form a belief as to who decided that Lincoln General would be placed in run-off. Said allegation is, therefore, denied and proof thereof is demanded. Stating further, the Department denies that it had any involvement in the selection of the firm that managed the run-off.

12. Denied. The Department is without knowledge or information sufficient to form a belief as to what entity “devised a detailed plan to run-off Lincoln[] [General’s] business.” Said allegation is, therefore, denied, and proof thereof is demanded. Stating further, the “Risk Based Capital Plan” or “Run-off Plan” referred to by Kingsway is confidential pursuant to 40 P.S. § 221.12-A. Kingsway is in violation of law by referencing that plan.

13. Denied. The “Risk Based Capital Plan” or “Run-Off Plan” referred to by Kingsway is a document that speaks for itself. Stating further, the Risk Based Capital Plan or Run-Off Plan is confidential pursuant to 40 P.S. § 221.12-A. Kingsway is in violation of law by referencing that plan.

14. Denied. The Department incorporates herein its response to paragraph 13.

15. Denied. The Run-Off Management Agreement is a document that speaks for itself.

16. Denied. The Department incorporates herein its response to paragraphs 13 and 15.

17. Denied. The Department is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 17. Said allegations are, therefore, denied and proof thereof is demanded. Stating further, the Run-Off Management Agreement is a document that speaks for itself.

18. Denied as a conclusion of law to which no response is required. Stating further, the “Risk Based Capital Plan” or “Run-Off Plan” referred to by Kingsway is a document that speaks for itself. Stating further, the Risk Based Capital Plan or Run-Off Plan is confidential pursuant to 40 P.S. § 221.12-A. Kingsway is in violation of law by referencing that plan.

Serious Risks Posed by Lincoln’s Distressed Financial Position

19. Denied. The Department is without knowledge or information sufficient to form a belief about the risks posed to Kingsway based upon speculative losses for Lincoln General. Said allegations are, therefore, denied and proof thereof is demanded. Stating further, glaringly absent from this allegation is Kingsway’s concern about any risk posed to Lincoln General and its policyholders as a result of the attempted divestiture of the company.

20. Denied. The Department is without knowledge or information sufficient to form a belief about the strength of Kingsway’s other businesses, what

A.M. Best would do, assuming that Lincoln General suffered additional, future losses, or about Kingsway's ability to conduct business in certain markets if Lincoln General were to suffer additional, future losses. Said allegations are, therefore, denied and proof thereof is demanded.

21. Denied. The first sentence of paragraph 21 is speculation as to what actions, if any, the Department might take with respect to Lincoln General. Said allegation is, therefore, denied and proof thereof is demanded. Stating further, the Department denies that a representative from the Department specifically mentioned in a September 2009 meeting the possibility of placing Lincoln General into receivership or liquidation. Rather, Deputy Insurance Commissioner Stephen Johnson had a brief, informal discussion with representatives from Kingsway during which he mentioned that while placing Lincoln General into liquidation was a possibility, the Department works with company management to arrive at solutions to avoid liquidation.

By way of further response, the Department is without knowledge or information sufficient to form a belief about what would occur under the terms of Kingsway's public debt covenants if Lincoln General was placed into receivership or liquidation. Stating further, despite repeated requests, Kingsway did not provide the Department with copies of the debt covenants. Said allegations are, therefore, denied and proof thereof is demanded.

Kingsway's Disposition of Lincoln

22. Denied. The Department is without knowledge or information sufficient to form a belief about what the Board of Directors of Kingsway concluded and why they reached the conclusion they did. Said allegations are, therefore, denied and proof thereof is demanded. Stating further, the Department denies that divestiture of Lincoln General was the only way to ensure Kingsway's viability. As Deputy Commissioner Johnson told Kingsway in September 2009, the Department was willing to work with Kingsway to attempt to arrive at a solution to Lincoln General's financial difficulties that did not involve liquidation.

23. Admitted in part, denied in part. Upon information and belief, the Department admits only that the Boards of Directors of Kingsway and Kingsway America made the decision to divest themselves of Lincoln General. Stating further, the Department denies that Kingsway successfully disposed of its entire ownership interest in both Walshire and Lincoln General by giving Walshire's stock to 20 different charities. By way of further response, the Department denies the divestiture was proper and the characterization of the divestiture of Lincoln General as a "donation" to the extent it implies that it somehow benefited 20 different charitable organizations. Rather, Kingsway, solely in an attempt to divest itself of Lincoln General, sent messengers to visit, in person, each of 20 different and unsuspecting charities on October 19, 2009. The Kingsway messengers presented each charity with a stock certificate representing 226,112.55 shares of Walshire stock, along with a check from Kingsway in the amount of

\$20,000, as inducement for accepting the shares. When combined, the stock certificates represented 100 percent of the total shares of Walshire stock.

Based upon information and belief and by way of further response, a representative from each charity was required to sign a gift receipt and have their photograph taken with the stock certificate as acknowledgement of receipt. True and correct copies of a sample stock certificate issued to the charities involved, the \$20,000 check, and the gift receipt required to be signed by the charities are attached as Exhibit B. Stating further, Kingsway's attempted divestiture is in violation of the Act and the G4A and thus, is invalid and must be unwound.

24. Denied. The Department incorporates herein by reference its response to paragraph 23. Stating further, the attempted divestiture is void under the doctrine of *invito beneficium non datur*—no benefit is given to one unwilling; no one is obliged to accept a benefit against his consent.

25. Admitted in part, denied in part. Although the Department admits that Kingsway publicly expressed its intent to meet its regulatory and contractual obligations to Lincoln General, the Department denies that Kingsway has done so. By way of further response, by attempting to divest itself of Lincoln General, Kingsway failed to meet its regulatory obligations to Lincoln General to assist in maintaining its financial stability and assuring a solvent run-off. Stating further, Kingsway has failed to demonstrate that it will fulfill its obligations to Lincoln General, including, but not limited to, services critical for day-to-day operations, payroll, benefits, investment management services, participation in ongoing

reinsurance programs managed by Kingsway, directors and officers insurance, and various contractual obligations critical to Lincoln General's operations.

By way of further response, the Department is without knowledge or information sufficient to form a belief about how Kingsway is in a better position to meet its obligations and provide support to Lincoln General after attempting to divest itself of its interest in Lincoln General. Said allegations are, therefore, denied and proof thereof is demanded.

26. Admitted in part, denied in part. The Department admits that Kingsway supplied \$10 million to Lincoln General. The Department, however, denies that the infusion of \$10 million was to fund Lincoln General's reserve deficiencies. To the contrary, the cash infusion was to fund Lincoln General's lack of surplus, and because Kingsway had committed publicly, and to the Department, to make this cash infusion.

By way of further response, the Department denies any implication that this payment by Kingsway evidences or implies that Kingsway will continue to meet its obligations to Lincoln General. In fact, Kingsway's attempted divestiture of Lincoln General demonstrates Kingsway's failure to meet its regulatory obligations to Lincoln General to assist in maintaining its financial stability.

27. Admitted in part, denied in part. The Department admits that Kingsway first informed the Department of the transaction, through Deputy Commissioner Johnson, on October 19, 2009, as it was underway. Stating further, although the Department admits that Kingsway stated to the Department that it

intended to meet all of its regulatory and contractual obligations and responsibilities to Lincoln General, the Department denies that Kingsway is, in fact, meeting its regulatory and contractual obligations to Lincoln General. By way of further response, Kingsway's divestiture scheme indicates otherwise. Stating further, the Department incorporates herein its response to paragraph 25.

28. Denied. The Department's letter to Kingsway is a document that speaks for itself. A true and correct copy of the Department's October 20, 2009 letter is attached as Exhibit C.

29. Denied. Kingsway's letter to the Department is a document that speaks for itself. A true and correct copy of Kingsway's October 21, 2009 letter is attached as Exhibit D.

30. Denied. Kingsway initially refused to notify the Department of the names of the charities to which it had purportedly given the Walshire stock. Stating further, the Department learned the names of several of the charities through Lincoln General. By way of further response, the Department's letter that was sent to five of the charities, speaks for itself and is attached as Exhibit E. Stating further, the Department denies Kingsway's characterization of the Department's letter.

31. Denied. The Department's press release speaks for itself.

32. Denied. The Department denies Kingsway's characterization of its statements. Stating further, the Department is without knowledge or information sufficient to form a belief about the impact its statements have had on Kingsway.

Said allegations are, therefore, denied and proof thereof is demanded. By way of further response, Kingsway set all events in motion by attempting to illegally divest itself of Walshire and Lincoln General.

Section 1402—The “Form A” Statute

33. Denied as a conclusion of law to which no response is required. To the extent a response is required, the allegations of this paragraph are denied and proof thereof is demanded.

34. Denied as a conclusion of law to which no response is required. To the extent a response is required, the allegations of this paragraph are denied and proof thereof is demanded.

35. Denied. The Department denies that each charity received a five percent interest in Lincoln. Rather, Kingsway attempted to give each charity five percent of the stock of Walshire. The remaining allegations are denied as conclusions of law to which no response is required. Stating further, the Department denies that Kingsway’s “donation” excepted the transaction from the Act, the G4A, or the Pennsylvania Business Corporation Law.

COUNT I: DECLARATORY RELIEF

36. The Department’s responses to paragraphs 1 through 35 are incorporated herein by reference.

37. Denied as a conclusion of law to which no response is required. To the extent a response is required, the allegations of this paragraph are denied and proof thereof is demanded.

38. Denied as a conclusion of law to which no response is required. To the extent a response is required, the allegations of this paragraph are denied and proof thereof is demanded. By way of further response, the Department specifically denies that Kingsway successfully donated five percent of Walshire's stock to 20 different charitable organizations. The Department denies any implication that no person or entity has control of Lincoln General. To the contrary, Kingsway remains in control of Lincoln General.

WHEREFORE, the Commonwealth of Pennsylvania, Insurance Department, respectfully requests that this Court deny Kingsway's request for declaratory relief, find that Kingsway's actions are in violation of the Pennsylvania Insurance Holding Company Act, the GAA Amendments Act, and the Business Corporation Law, and order that the transaction be unwound.

New Matter

39. Paragraphs 1 through 38 above are incorporated herein by reference.

Background

40. Kingsway acquired control of Lincoln General in 1998 by means of a Form A Filing under the Act. *See* Exhibit A.

41. After its acquisition by Kingsway, Lincoln General's net written premiums increased from \$33 million in 1999 to a high of \$1 billion in 2004.

42. Lincoln General began experiencing financial distress in 2005.

43. Lincoln General's surplus has diminished from \$160,380,582 in 2004 to \$79,227,960 in 2008 and \$6,683,340 as of September 30, 2009.

44. In March 2009, Lincoln General management decided to voluntarily run-off Lincoln General's book of business and signed a Letter Agreement with the Department to that effect.

45. In the early Fall of 2009, Lincoln General undertook a claim-by-claim review to ascertain the adequacy of its reserves.

The Attempted Divestiture Transaction

46. Although Lincoln General's claims review was not yet complete, shortly before October 16, Kingsway decided to attempt to divest its entire interest in Lincoln General.

47. Kingsway did so because it feared that Lincoln General's financial condition would adversely affect Kingsway, and believed that if some entity or entities unrelated to Kingsway owned Lincoln General, Kingsway would not be adversely affected.

48. Thus, Kingsway formulated a plan to attempt to divest itself of its ownership of 100 percent of the outstanding stock in Walshire, which owns 100 percent of the outstanding stock in Lincoln General.

49. Kingsway's plan was to divide the outstanding stock in Walshire—100 percent of which it owned, into 20 equal portions, each comprised of 226,112.55 shares, or five percent of the outstanding stock in Walshire—and to transfer the five percent blocks of shares to 20 different charitable organizations.

50. Kingsway planned that all 20 transfers would occur within a short period of time, one day if possible, such that following the transfers, 100 percent

of the outstanding stock of Walshire would be owned by 20 charitable organizations and none of the outstanding stock in Walshire would be owned by Kingsway.

51. Kingsway determined to attempt to carry out its plan on Monday, October 19, 2009.

52. On Friday, October 16, 2009, Kingsway representatives contacted at least 20 charitable organizations by telephone.

53. All of the charitable organizations contacted by Kingsway or its representatives were located in and around New York City.

54. In each case, the Kingsway representatives asked whether a representative of the organization would be present at the charity's offices on Monday, October 19, 2009 to accept a donation.

55. Neither Kingsway nor its representatives provided a description of the proposed donation during the telephone calls to the charitable organizations.

56. Neither Kingsway nor its representatives advised the charitable organizations of the financial condition of Kingsway or Lincoln General.

57. Neither Kingsway nor its representatives advised the charitable organizations that at the time the Walshire stock was proposed to be given to it, 100 percent of the outstanding stock of Walshire was being given to 19 other charitable organizations.

58. No Kingsway representative made any effort to learn whether or not the charitable organizations approached had any awareness of the nature of the

duties, obligations, and/or risks involved in owning stock in an insurance corporation or any ability to carry out such duties and obligations or undertake such risks.

59. In fact, none of the charitable organizations had such an awareness or ability.

60. In each case, if Kingsway's telephone inquiry about whether a person from the charitable organization would be present on Monday, October 19, 2009 to accept Kingsway's donation was answered affirmatively, then that charity was placed on a list to be visited that day by a Kingsway representative in order to make the donation.

61. On Monday, October 19, 2009, Kingsway's representatives visited, in person, at least 20 different charities and presented each with a stock certificate representing 226,112.55 shares of Walshire's stock.

62. To persuade the charitable organizations to accept the Walshire stock, Kingsway also gave each charitable organization a check from Kingsway in the amount of \$20,000.

63. Kingsway gave to each of the 20 of the charitable organizations the following:

- a) A stock certificate for Walshire, which represented 226,112.55 shares in Walshire;
- b) A check in the amount of \$20,000;
- c) A "RECEIPT OF GIFT" in the form attached as Exhibit B.

64. The charitable organizations visited by representatives of Kingsway and who accepted Kingsway's donations are:

- The Breast Cancer Research Foundation
60 East 56th Street, 8th Floor
New York, NY 10022
- Association of Modern Chinese Art
3205 146th St
Flushing, NY 11354
- Meaningful Life Center
788 Eastern Parkway
Brooklyn, NY 11213
- MASBIA
4114 14th Avenue
Brooklyn, NY 11219
- St. Stanislaus Church
101 East 7th Street
New York, N.Y. 10009
- New York City Rescue Mission
90 Lafayette Street
New York, NY 10013-4416
- West Side YMCA
5 West 63rd St.
New York, NY 10023
- American Foundation for AIDS Research
120 Wall Street, 13th Floor
New York, NY 10005-3908
- A Better Chance
240 West 35th Street 9th Floor
New York, NY 10001
- Lawyers for Children
110 Lafayette Street

New York, NY 10013

- Leary Firefighters Foundation
594 Broadway, Suite 409
New York, NY 10012
- Children's Aid Society
105 East 22nd Street, Room 504
New York, NY 10010
- Citymeals-on-Wheels
355 Lexington Avenue
New York, NY 10017
- American Foundation for the Blind
11 Penn Plaza, Suite 300
New York, NY 10001
- Broadway Cares
165 West 46th Street, # 1300
New York, NY 10036
- Project Sunshine
108 West 39th Street, Suite 725
New York, NY 10018
- Children's Tumor Foundation
95 Pine Street, 16th Floor
New York, NY 10005
- Seeds of Peace
370 Lexington Avenue, Suite 401
New York, NY 10017
- Society for the Advance of Travel for the Handicapped
347 Fifth Ave, Suite 605
New York, NY 10016
- National Down Syndrome Society
666 Broadway
New York, NY 10012

65. If a charitable organization that was visited questioned the advisability of accepting the donation, the Kingsway representative was instructed to move on to another charity.

66. If the charitable organization agreed to accept the stock and the check, a representative of the charity was asked to sign a "RECEIPT OF GIFT" in the form set forth in Exhibit B and to pose for a photograph so that Kingsway would not only have the signed receipt of gift to prove that the gift was made but a photographic record as well.

67. By the end of the day on October 19, 2009, Kingsway had completed the transaction in which it had attempted to divest its entire interest in Walshire to the above 20 charities ("divestiture transaction").

68. Kingsway did not advise the Department or any other governmental entity of its plans for divestiture of Walshire prior to the divestiture transaction.

69. At approximately 2 p.m. on October 19, 2009, Kingsway called Deputy Commissioner Johnson to inform him of the divestiture transaction while it was underway. *See* Exhibit D.

70. The purpose of advising Deputy Commissioner Johnson of the divestiture transaction only while it was underway and likely nearing completion was to disable Deputy Commissioner Johnson from the ability to seek any injunctive relief to prevent the transaction from occurring.

71. Upon learning of Kingsway's attempt to divest its interest in Lincoln General, on October 20, 2009, Deputy Commissioner Johnson sent a letter to

Colin Simpson, President and CEO of Kingsway, informing of the illegality of the divestiture transaction pursuant to the Act. *See Exhibit C.*

72. In its October 20, 2009 letter, the Department requested the names of the charitable organizations to which Kingsway had given the stock certificates, but Kingsway, at that time, refused to provide that information.

73. On October 21, 2009, Kingsway responded to the Department's letter. In its letter, Kingsway stated:

Lincoln was an indirect wholly-owned subsidiary of Kingsway, and Lincoln's immediate parent company is Walshire Assurance Company ("Walshire"). On Monday, October 19, 100% of Walshire's outstanding common stock was transferred to 20 third parties (the "New Shareholders"), each of whom acquired 5% of the common stock of Walshire. Kingsway understands that each of the New Shareholders is a charitable organization (and is not engaged in an insurance business). Each of the New Shareholders received the Walshire stock in a separate transaction as a donation from the current owner of the shares, Kingsway America Inc. ("KAI"), an indirect wholly-owned subsidiary of Kingsway. None of the New Shareholders is affiliated with any other of the New Shareholders. Kingsway understands that the donation of the shares to the New Shareholders was in all respects bona fide and in compliance with the corporate laws applicable to Walshire and KAI. Kingsway has no reason to believe that the New Shareholders wish to take any part in the operation or governance of Walshire or Lincoln.

See Exhibit D.

74. On October 26, 2009, after learning from Lincoln General the names of five of the charitable organizations that had been approached by Kingsway as it carried out the divestiture transaction, the Department contacted the five charitable organizations by letter and recommended that they return the Walshire stock to Kingsway. *See Exhibit E.*

75. Some of the charitable organizations that received the stock certificates and \$20,000 from Kingsway attempted to return the shares to Kingsway.

76. For example, by letter dated October 27, 2009, The Children's Aid Society rejected the donation of the Walshire stock and returned the stock certificate to Kingsway. A true and correct copy of The Children's Aid Society's letter to Kingsway is attached as Exhibit F.

77. In addition, by letter dated October 28, 2009, the Children's Tumor Foundation returned to Kingsway the Walshire stock certificate, a \$20,000 check payable to Kingsway, a copy of Kingsway's check to the Children's Tumor Foundation, a copy of the signed gift receipt, and a copy of the letter from Deputy Commissioner Johnson. Copies of the foregoing documents are attached as Exhibit G.

78. Kingsway refused to accept return of the stock certificates from the charitable organizations. A true and correct copy of an example of Kingsway's letter refusing return of the shares is attached as Exhibit H.

79. At least one charitable organization, A Better Chance, disputes that the donation was valid from the outset because the organization's name on the gift certificate was incorrect. Thus, A Better Chance returned the Walshire shares to Kingsway. A true and correct copy of A Better Chance's letter to Kingsway is attached as Exhibit I.

80. In addition, at least one other charitable organization, American Foundation for the Blind (“AFB”) rejected the donation because AFB’s policy was that it could not accept publicly traded stocks or securities that are not otherwise readily marketable. A true and correct copy of AFB’s letter to Kingsway is attached as Exhibit J.

81. Eventually, after an October 28, 2009 meeting with the Department, and upon repeated requests by the Department, Kingsway did provide a list of the 20 charities that received Walshire stock certificates and \$20,000 checks from Kingsway.

The Debt Covenants

82. Kingway, through its counsel, met with the Department numerous times since October 28, 2009 to attempt to come to an agreement on how the attempted divestiture transaction could be unwound.

83. In its initial meetings and correspondence with the Department, Kingsway asserted that the reason for the divestiture transaction was to “avoid the potential future default under Kingsway’s debt indentures that would have occurred had Lincoln remained a member of the consolidated group and were [sic] placed into formal supervision, rehabilitation or liquidation.” *See* Exhibit D.

84. The debt covenants referenced above would only be triggered in the event of Lincoln General’s formal supervision, rehabilitation, or liquidation.

85. Given Kingsway’s representation to the Department that the debt covenants were instrumental in Kingsway’s decision to implement the divestiture

transaction, the Department has made repeated requests since October 28, 2009 for copies of the debt covenants.

86. To date, Kingsway has not provided the Department with copies of the debt covenants.

87. Due to Kingsway's failure to provide copies of the debt covenants, its refusal to unwind the divestiture transaction, and its abandonment of Lincoln General and its duty to ensure a solvent run-off of the company, the Department filed suit against Kingsway at Docket No. 611 M.D. 2009, seeking declaratory and injunctive relief from this Court.

Applicable Law

88. At the October 28, 2009 meeting and numerous times thereafter, the Department requested documentation confirming that Kingsway had complied with corporate formalities concerning the divestiture transaction, including, but not limited to, the requirements of 15 Pa.C.S. §§ 1727 and 1757, but Kingsway did not provide this information to the Department.

89. For example, Kingsway provided no documentation to the Department that a majority of the directors of Walshire had approved the divestiture transaction. *See* 15 Pa.C.S. § 1727(a).

90. The divestiture transaction was not approved by a majority of the directors of Walshire.

91. Kingsway provided no documentation to the Department that the divestiture transaction was in accordance with Walshire's by-laws or pursuant to

resolutions or orders of the board of directors. *See* 15 Pa.C.S. §1732(b); 15 Pa. C.S. § 1932.

92. The divestiture transaction was not in accordance with Walshire's by-laws.

93. The divestiture transaction was not in accordance with resolutions or orders of Walshire's Board of Directors.

94. Kingsway provided no documentation to the Department that the divestiture transaction had been authorized by a majority of the shareholders of Walshire.

95. The divestiture transaction was not authorized by a majority of the shareholders of Walshire.

96. The sole signatory on the stock certificates distributed to the charities was Joseph Stillwell as President and Secretary of Walshire.

97. Kingsway provided no documentation to the Department that Mr. Stillwell was a properly elected officer of Walshire in accordance with Walshire's by-laws.

98. Joseph Stillwell was not a properly elected officer of Walshire in accordance with Walshire's by-laws.

99. The divestiture transaction did not comply with applicable corporate law.

100. Kingsway's divestiture transaction to attempt to divest its entire interest in Lincoln General, by giving the 20 different non-profits listed above

collective control of Lincoln General, is unlawful, since Department approval of the transaction was not obtained. Thus, the transaction must be unwound.

101. As a result of the ownership structure of Lincoln General, at all times relevant hereto, Kingsway has been part of an insurance holding company system, subject to the provisions of the Act.

102. Section 1402 of the Act, which requires the Department's prior approval of transactions that would effectuate a change in control of a domestic insurer, states as follows:

No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities or seek to acquire in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, such person would directly or indirectly or by conversion or by exercise of any right to acquire, be in control of such insurer, and no person shall enter into an agreement to merge or consolidate with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time of any such offer, request or invitation is made or any such agreement is entered into or prior to the acquisition of such securities if no offer or agreement is involved, such person has filed with the department and has sent to such insurer a statement containing the information required by this section and such offer, request, invitation, agreement, or acquisition has been approved by the department in the manner hereinafter prescribed.

40 P.S. § 991.1402 (emphasis added).

103. "Control" is presumed to exist under the Act "if any person directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten per centum (10%) or more of the voting securities of any other

person.” 40 P.S. § 991.1401 (definition of “[c]ontrol,” “controlling,” “controlled by” and “under common control with”).

104. At all times relevant hereto, Kingsway has owned a “controlling” interest in Lincoln General as that term is defined in 40 P.S. § 991.1401.

105. At all times relevant hereto, Kingsway has been an “ultimate controlling person” with respect to Lincoln General as that term is defined in 31 Pa. Code § 25.1.

106. Under the Act, a holding company may dispose of an interest in an insurance company only through the filing of a pre-acquisition notification, known as a “Form A filing,” under Section 1402 of the Act. 40 P.S. § 991.1402(a)(1).

107. There are seven standards that a company must meet in order to obtain Department approval of a Form A filing:

- a. After the transaction, the domestic insurer would 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.
- b. The transaction would not substantially lessen competition in insurance in this Commonwealth or tend to create a monopoly therein.
- c. The financial condition of the acquiring party would not jeopardize the financial stability of the insurer or prejudice the interest of its policyholders.
- d. The acquiring party may not make any material change in the insurer’s business or corporate structure or management that would be unfair and unreasonable and fail to confer a benefit on policyholders of the insurer and are not in the public interest.
- e. The competence, experience and integrity of the persons who would control the operation of the insurer must be such that it is

in the interest of policyholders of the insurer and the public for the transaction to occur.

- f. The transaction may not be hazardous or prejudicial to the insurance-buying public.
- g. The transaction must be in compliance with the laws of this Commonwealth.

40 P.S. § 991.1402(f)(1).

108. Thus, the Department must ensure that the interests of the insurer, policyholders, creditors, and the insurance buying public are protected and that the transaction is in compliance with Pennsylvania law before a change in control of a domestic insurer can occur and receive Department approval.

109. The divestiture transaction prevented the Department from protecting the policyholders, creditors, and the public. The Department did not have the opportunity to explore the rights and obligations of all parties to ensure an orderly transition to the new owners, which is especially critical with a troubled company in run off, like Lincoln General.

110. Instead of complying with the Act, Kingsway attempted to circumvent the Act's requirements and unilaterally divest itself of control of Lincoln General without Department approval by giving the Walshire shares to 20 different non-profits to give the impression that no one entity would be the controlling shareholder.

111. Moreover, Kingsway eliminated the ability of the charitable organizations to make an informed decision about the acquisition, perform due

diligence, or decide whether receipt of the Walshire stock was in their best interest.

112. Because of the manner in which Kingsway attempted to dispose of the stock of Walshire, the 20 charities are potentially exposed to sanctions under the Act which include, but are not limited to, a civil penalty of up to \$50,000. *See* 40 P.S. §§ 991.1402(a)(2) and 991.1403(e)(3).

113. The divestiture transaction triggered the filing requirements under Section 1405 for a Form D prior approval filing.

114. Section 1405 sets forth the obligations of a holding company to its subsidiary for transactions entered into by the holding company:

- a. The transaction terms must be fair and reasonable.
- b. Charges or fees for services performed must be reasonable.
- c. Expenses incurred shall be allocated pursuant to customary insurance accounting practices and formalized in writing and authorized by the insurer's board of directors.
- d. The details of the transaction must be clearly and accurately disclosed.
- e. After the transaction is complete, the insurer's surplus as regards policyholders must be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

40 P.S. § 991.1405(a)(1).

115. In particular, under Section 1405(a)(2), when a holding company sells the assets of a subsidiary that equal or exceed the lesser of five percent of the

subsidiary's admitted assets or 25 percent of its surplus, Department approval is required.

116. Under Section 1405(a)(2), the transaction may not be entered into unless the Department has been notified 30 days in advance of the transaction and has not issued a disapproval within the same time period. 40 P.S. § 991.1405(a)(2)(i).

117. Kingsway's attempted disposition of 100 percent of its interest in Lincoln General exceeds five percent of Lincoln General's admitted assets and 25 percent of its surplus.

118. Kingsway's attempted disposition of 100 percent of its interest in Lincoln General represents a sale of Lincoln General to the charities in return for consideration of \$20,000 to each charity.

119. In violation of Section 1405(a)(2)(i), Kingsway did not notify the Department 30 days in advance of the divestiture transaction.

120. In addition to the Form A and Form D requirements under the Act, the transaction also required Department approval under the G4A.

121. The G4A provides that any asset transfer of an insurance corporation becomes effective only if approved by the Department. 15 P.S. § 21205(a).

122. The G4A charges the Department with determining whether the transaction is in accordance with law and not injurious to the interests of the policyholders and creditors. *Id.*

123. Kingsway's purported disposition of 100% of its interest in Lincoln General to 20 charities represented an asset transfer of an insurance corporation pursuant to Pennsylvania's Business Corporation Law, 40 Pa.C.S. § 1932.

124. In violation of the G4A, Kingsway did not seek Department approval of the transaction.

125. Pursuant to 40 P.S. § 991.1402(f)(3), the Department is entitled to an award of attorney's fees from Kingsway.

WHEREFORE, the Commonwealth of Pennsylvania, Insurance Department, respectfully requests that this Court deny Kingsway's request for declaratory relief, find that Kingsway's actions are in violation of the Pennsylvania Insurance Holding Company Act, the GAA Amendments Act, and the Business Corporation Law, and order that the transaction be unwound.

Respectfully submitted,



Amy G. Daubert

Chief Counsel

Attorney I.D. # 62064

Laura A. Gargiulo

Department Counsel

Attorney I.D. # 86128

Zella Smith Anderson

Department Counsel

Attorney I.D. # 46508

Pennsylvania Insurance Department

1341 Strawberry Square

Harrisburg, PA 17120

(717) 787-2567

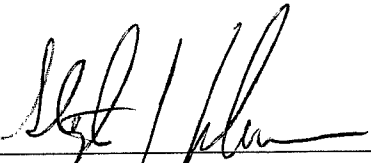
*Counsel for the
Commonwealth of Pennsylvania,
Insurance Department*

DATED: December 21, 2009

VERIFICATION

I, Stephen J. Johnson, Deputy Insurance Commissioner for the Pennsylvania Insurance Department, hereby verify that I am authorized to make this verification, and that the statements made in the within Answer and New Matter are true and correct to the best of my knowledge, information and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.



Stephen J. Johnson, CPA
Deputy Insurance Commissioner

EXHIBIT A

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

In Re:	:	Pursuant to Sections 1401, 1402,
	:	and 1403 of the Insurance
Application of Kingsway Financial	:	Holding Companies Act, Article
Services, Inc., in Support of the	:	XIV of the Insurance Company
Request for Approval to Acquire	:	Law of 1921, Act of May 17, 1921,
Control of All the Capital Stock of	:	P.L. 682, <u>as amended</u> , 40 P.S.
Lincoln General Insurance Company,	:	§§991.1401, 991.1402, and
Yorktowne Insurance Company and	:	991.1403
Comp America Insurance Company	:	
	:	Order No. ID-RC-98-40

DECISION AND ORDER

AND NOW, on this 16th day of November, 1998, M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania ("Commissioner"), hereby makes the following Decision and Order:

Pursuant to the Insurance Holding Companies Act and in consideration of the documents, presentations and reports received, as well as other inquiries and studies as permitted by law, the Commissioner hereby makes the following findings of fact:

FINDINGS OF FACT

Identity of the Parties

1. Lincoln General Insurance Company ("Lincoln General") is a domestic stock fire insurance company organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in York, Pennsylvania.

2. Yorktowne Insurance Company ("Yorktowne") is a domestic stock fire insurance company organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in York, Pennsylvania.
3. Comp America Insurance Company ("Comp America") is a domestic stock casualty insurance company organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in York, Pennsylvania.
4. Walshire Assurance Company ("Walshire") is a domestic insurance holding company organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in York, Pennsylvania. The common stock of Walshire is publicly traded on the NASDAQ National Market System.
5. Walshire controls 100% of the issued and outstanding common stock of Lincoln General, Yorktowne and Comp America.
6. Kingsway Financial Services Inc. ("Kingsway") is an alien insurance and financial services holding company incorporated under the laws of the Province of Ontario, Canada, with its principal place of business located in Mississauga, Ontario, Canada. The common stock of Kingsway is publicly traded on the Toronto Stock Exchange.
7. Kingsway America Inc. ("Kingsway America") is a foreign insurance and insurance related services intermediate holding company incorporated under the laws of the state of Delaware with its principal place of business located in Schaumburg, Illinois. Kingsway America is wholly owned by Kingsway and was formed to hold the United States subsidiaries of Kingsway.
8. W Acquisition is a domestic business company incorporated under the laws of the Commonwealth of Pennsylvania with its principal place of business located in Mississauga, Ontario, Canada. W Acquisition is wholly owned by Kingsway America and was incorporated solely for the purposes of the instant transaction.

Filing of the Application

9. The Insurance Holding Companies Act, Article XIV of the Insurance Company Law of 1921, Act of May 17, 1992, P.L. 682, as amended, 40 P.S. §§991.1401 et seq. ("Insurance Holding Companies Act"), provides that all

changes in control of domestic insurers must be filed with the Commissioner for approval or disapproval.

10. On September 11, 1998, the Insurance Department of the Commonwealth of Pennsylvania ("Department") received an initial application (which together with all material received subsequently is collectively referenced as "Application") from Kingsway for approval to acquire control of all of the issued and outstanding capital stock of Lincoln General, Yorktowne and Comp America by the merger of W Acquisition with and into Walshire.
11. The Application was filed pursuant to Section 1402 of the Insurance Holding Companies Act.

Notice of Filing and Comments

12. On September 26, 1998, the Department published notice in the Pennsylvania Bulletin that the Application was submitted by Kingsway and such notice invited interested persons to submit comments to the Department regarding the Application for a 30 day period, ending October 26, 1998.
13. During the 30 day period, the Department received no comments regarding the Application.

The Transaction

14. As described in the Application, Kingsway, Kingsway America, W Acquisition and Walshire executed an Agreement and Plan of Merger dated as of August 11, 1998 ("Merger Agreement") which provides for W Acquisition to merge with and into Walshire, with Walshire being the surviving corporation.
15. At the time of merger, all existing shares of Walshire stock will be canceled and in exchange each shareholder will receive \$8.25 in cash for each share of common stock of Walshire held and \$50.00 in cash for each share of 6 1/2% convertible preferred stock, plus an amount equal to all accrued and unpaid dividends on such preferred stock, held.
16. As described in the Application, any shares of the common stock or preferred stock of Walshire held by Kingsway or any of its subsidiaries or by Walshire or any of its subsidiaries will be canceled and retired upon the effective date of the merger.

17. The Application requests approval for Kingsway to acquire control of Lincoln General, Yorktowne and Comp America which will result from the effectuation of the Merger Agreement.
18. If any of the above Findings of Fact are determined to be Conclusions of Law, they shall be incorporated in the Conclusions of Law as if fully set forth therein.

CONCLUSIONS OF LAW

1. Under Section 1402 of the Insurance Holding Companies Act, the Commissioner has jurisdiction to review and approve the change in control of Company.
2. Under Section 1402 of the Insurance Holding Companies Act, the Commissioner must approve an application for a change in control unless the Department has found that:
 - a) The insurer will not be able to satisfy the requirements for the issuance of a license to operate the line or lines of business for which they are presently licensed;
 - b) The change in control will substantially lessen competition in insurance in this Commonwealth or tend to create a monopoly therein;
 - c) The financial condition of the acquiring company is such as might jeopardize the financial stability of the insurer or prejudice the interests of its policyholders;
 - d) Any plans to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make material changes in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer and not in the public interest;
 - e) 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 and the general public to permit the acquisition of control; or,

- f) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.
- 3. Under Section 1402 of the Insurance Holding Companies Act, the Commissioner has not found that any of the above conditions are present with respect to the change in control of Company.
- 4. If any of the above Conclusions of Law are determined to be Findings of Fact, they shall be incorporated in the Findings of Fact as if fully set forth therein.

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

In Re: : Pursuant to Sections 1401, 1402,
: and 1403 of the Insurance
Application of Kingsway Financial : Holding Companies Act, Article
Services, Inc., in Support of the : XIV of the Insurance Company
Request for Approval to Acquire : Law of 1921, Act of May 17, 1921,
Control of All the Capital Stock of : P.L. 682, as amended, 40 P.S.
Lincoln General Insurance Company, : §§991.1401, 991.1402, and
Yorktowne Insurance Company and : 991.1403
Comp America Insurance Company :
: Order No. ID-RC-98-40

ORDER

Upon consideration of the foregoing, the Insurance Commissioner of the Commonwealth of Pennsylvania ("Commissioner"), hereby makes the following Order:

The acquisition of control by Kingsway Financial Services, Inc. ("Kingsway") of all the authorized capital stock of Walshire Assurance Company, as described in the Application, is hereby approved, subject to this Order and the following condition:

Kingsway shall provide copies of the closing documents to the Commissioner within five (5) days of consummation of the subject transaction.

This Order is effective immediately.

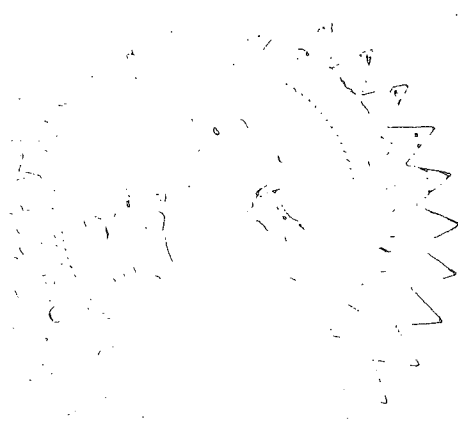



M. DIANE KOKEN
Insurance Commissioner
Commonwealth of Pennsylvania

EXHIBIT B

NC-17

226,112.55

Incorporated under the laws of the Commonwealth of Pennsylvania

Walshire Assurance Company
Common Stock

This is to Certify that Childrens Tumor Foundation

is the owner of

TWO HUNDRED SIXTY SIX THOUSAND ONE HUNDRED TWENTY AND FIVE HUNDRED

AND FIVE HUNDRED TWENTY AND FIVE HUNDRED TWENTY AND FIVE HUNDRED TWENTY
non-assessable shares of the above Corporation transferable only on the books of the Corporation
by the holder thereof in person or by a duly authorized Attorney when surrender of this Certificate
properly endorsed.

Witness, the seal of the Corporation and the Signatures of its duly authorized officers,
Dated OCTOBER 17, 2009.

Joseph B. Lowell
Secretary

Joseph B. Lowell
President

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	— as tenants in common	UNIF GIFT MIN ACT	— Custodian
TEN ENT	— as tenants by the entireties		(Cust) (Minor)
JT TEN	— as joint tenants with right of survivorship and not as tenants in common		under Uniform Gifts to Minors Act (State)

Additional abbreviations may also be used though not in the above list.

For value received, hereby sell, assign, and transfer unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS INCLUDING POSTAL ZIP CODE OF ASSIGNEE)

Shares represented by the within Certificate, and do hereby irrevocably constitute and appoint

Attorney to transfer the said Shares on the books of the within named Corporation with full power of substitution, in the premises.

Dated _____

In presence of _____

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME IS PRINTED FROM THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR. BEWARE OF ATTENTION OR ENLARGEMENT OF ANY CHANGE WHATSOEVER.

ENDORSE HERE:

X

APR

DO NOT SIGN / WRITE / STAMP BELOW THIS LINE
FOR FINANCIAL INSTITUTION USAGE ONLY

Security Features
Microprint Line

Recycle of Document after 60 days
Small type below "ENDORSE HERE" lines
appear as raised or color band when copied

Chemical Stain with
Six Language VOID

"VOID" appears in any language with
chemical alteration

Background Pattern

Absence of ultra wave colored background
pattern on face and back would be visible

Artificial Watermark

Absence of bright glowing threads when
inspected under ultraviolet (black) light

Fluorescein

Absence of bright glowing threads when
inspected under ultraviolet (black) light

U.S. Paper Company, a subsidiary of Bank of America, National Association



KINGSWAY FINANCIAL SERVICES INC

DETAILS

CHARITABLE DONATION

DATE

10/18/2009

00003051

AMOUNT

20,000.00

CHEQUE TOTAL:

20,000.00

PAYABLE THROUGH THE BANK OF NOVA SCOTIA, 1 LIBERTY PLAZA, NEW YORK, NY, 10008



KINGSWAY FINANCIAL SERVICES INC.

7120 Hurontario Street, Suite 800, Mississauga, Ont. L5W 0A9

00003051

BNS SCOTIA PLAZA
44 KING ST. WEST
TORONTO, ON, M5H 1H1

DATE 10 18 2009
MM DD YYYY

PAY: Twenty Thousand Dollars and Zero Cents

TO THE ORDER OF:

CHILDRENS TUMOR FOUNDATION

120 WALL ST.
16TH FLOOR
NEW YORK NY

\$*****20,000.00

USD FUNDS

PER *David J. [Signature]*
AUTHORIZED OFFICIAL

PER *[Signature]*
AUTHORIZED OFFICIAL

⑆00003051⑆ ⑆026002532⑆ 85467⑆ 1⑆

RECEIPT OF GIFT

Childrens Tumor Foundation (print name of organization) hereby acknowledges receipt of and accepts the following gift: (i) from Kingsway America Inc., Stock Certificate No NC-17, representing 226,112.55 shares of the common stock of Walshire Assurance Company issued in our name, and accepts delivery of same; and (ii) from Kingsway Financial Services, Inc., a check of \$20,000.00.

Federal Tax Identification Number: 132298956

By: J. W. Riser

Name: John W. Riser

Title: President

EXHIBIT C



pennsylvania
INSURANCE DEPARTMENT

October 20, 2009

Colin Simpson
President and CEO
Kingsway Financial Services, Inc.
7120 Hurontario St., Suite 800
Mississauga, Ont. L5W 0A9

Re: Lincoln General Insurance Company

You notified the Pennsylvania Insurance Department (“Department”) yesterday that Kingsway Financial Services, Inc.’s (“Kingsway”), attempted to divest itself of all of Lincoln General Insurance Company’s (“LGIC”) stock. Based upon the information we currently have, this action appears to violate Pennsylvania’s Insurance Holding Companies Act, 40 P.S. §§ 991.1401 – 991.1413 (“Act”). Violating the Act could subject Kingsway, as well as its directors and officers in their individual capacities, to substantial fines, imprisonment, or both.

Specifically, the Department was informed that Kingsway’s wholly-owned subsidiary, Kingsway America, Inc. (“KAI”) attempted to dispose of its entire interest in KAI’s wholly-owned subsidiary, Walshire General Assurance Company (“Walshire”), via donations of Walshire’s stock to twenty different charitable organizations. Walshire is the sole shareholder of Lincoln General Insurance Company (“LGIC”) and as a result of the donations, Kingsway has represented that LGIC is no longer a member of the Kingsway consolidated group of companies.

The Insurance Holding Companies Act and other laws require the prior approval by the Department of any transaction which would effectuate a change of control of a Pennsylvania domestic insurer:

No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities or seek to acquire in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, such person would directly or indirectly or by conversion or by exercise of any right to acquire, be in control of such insurer, and no person shall enter into an agreement to merge or consolidate with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time of any such offer, request or invitation is made or any such agreement is entered into or prior to the acquisition of such securities if no offer or agreement is involved, such person has filed with the department and has sent to such insurer a statement containing the information required by this section and such offer, request, invitation, agreement, or acquisition has been approved by the department in the manner hereinafter prescribed.

40 P.S. § 991.1402(a)(1) (Emphasis added).

The preacquisition notification to the Department is required 30 days prior to the proposed effective date of the acquisition. 40 P.S. § 991.1402(a)(2). Failure to file the notification invites a civil penalty of up to \$50,000 and, more importantly, failure to obtain departmental approval voids the transaction. See 40 P.S. §§ 991.1402(a)(2) and 991.1403(e)(3) and 15 P.S. § 21205.

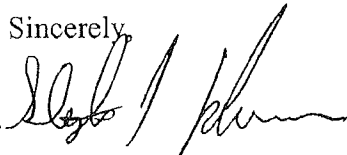
Further, any transaction that involves the sale, purchase, exchange, pledge of assets or assets to be received by the domestic insurer where the transaction equals or exceeds the lesser of 5% of the insurer's admitted assets or 25% of its surplus may not be entered into unless the Department has been notified 30 days in advance of the transaction and has not issued a disapproval within the same time period. 40 P.S. § 991.1405(a)(2)(ii). Clearly, the attempted divestiture of all of the stock of LGIC in the manner described above constitutes a material transaction invoking the prenotification and approval requirements of section 1405.

In addition to voiding the transaction in its entirety, violating the Act may subject every director or officer in an insurer's holding company system to severe penalties. Any director or officer who knowingly violates, participates in, or assents to transactions that violate the Act must pay, in their individual capacity, a civil forfeiture of up to \$25,000 per violation. 40 P.S. § 991.1410(b). Officers, directors, or employees who willfully and knowingly subscribe to or make false statements, reports, or filings with the intent to deceive the department may further subject themselves to fines of up to \$100,000, imprisonment for one to three years, or both. 40 P.S. § 991.1410(e).

The Department is reviewing all its options with regard to the attempted divestiture of LGIC's stock. In the meantime, at a minimum, the Department demands that Kingsway unwind the transaction until such time as the Department has had the opportunity to review it. The Department also requests that you submit to the Department immediately detailed information regarding the transaction including, but not limited to, any and all correspondence Kingsway has had with the charities regarding the donated shares and copies of the share certificates.

If you have legal authority that you contend removes the transaction from the purview of the Insurance Holding Companies Act, you must submit it in writing to my attention within one business day. I await your prompt response to this letter.

Sincerely,



Stephen J. Johnson, CPA
Deputy Insurance Commissioner
Office of Corporate and Financial Regulation

Cc: Gary J. Orndorff, President, Lincoln General Insurance Company
Amy Daubert, Chief Counsel, Pennsylvania Insurance Department
Nicholas Murray, Financial Analyst, Pennsylvania Insurance Department

EXHIBIT D

BAKER & DANIELS

EST. 1863

TIBOR D. KLOPFER
Partner
Direct 317.237.1133
tibor.klopf@bakerd.com

BAKER & DANIELS LLP
300 North Meridian Street, Suite 2700
Indianapolis, Indiana 46204-1782
Tel 317.237.0300 Fax 317.237.1000
www.bakerdaniels.com

October 21, 2009

Mr. Stephen J. Johnson, CPA
Deputy Insurance Commissioner
Office of Corporate and Financial Regulation
Pennsylvania Insurance Department
1345 Strawberry Square
Harrisburg, PA 17120

Re: Kingsway

Dear Mr. Johnson:

Kingsway Financial Services Inc. ("Kingsway") received your October 20, 2009 letter regarding Lincoln General Insurance Company ("Lincoln") and asked me to respond to your request for legal authority with respect to the Disposition Transaction (described below). As you will recall, we had a short conversation about that matter on Monday, October 19, when Kingsway's President, Colin Simpson, called to advise you that the Disposition Transaction was in process and to explain the purpose and effects of the transaction.

Description of the Disposition Transaction

Lincoln was an indirect wholly-owned subsidiary of Kingsway, and Lincoln's immediate parent company is Walshire Assurance Company ("Walshire"). On Monday, October 19, 100% of Walshire's outstanding common stock was transferred to 20 third parties (the "New Shareholders"), each of whom acquired 5% of the common stock of Walshire. Kingsway understands that each of the New Shareholders is a charitable organization (and is not engaged in an insurance business). Each of the New Shareholders received the Walshire stock in a separate transaction as a donation from the current owner of the shares, Kingsway America Inc. ("KAI"), an indirect wholly-owned subsidiary of Kingsway. None of the New Shareholders is affiliated with Kingsway, and Kingsway believes that none of the New Shareholders is affiliated with any other of the New Shareholders. Kingsway understands that the donation of the shares to the New Shareholders was in all respects bona fide and in compliance with the corporate laws applicable to Walshire and KAI. Kingsway has no reason to believe that the New Shareholders wish to take any part in the operation or governance of Walshire or Lincoln.

Insurance Holding Companies Act Requirements

In your letter you say that the Disposition Transaction "appears to violate Pennsylvania's Insurance Holding Companies Act, 40 P.S. §§ 991.1401 – 991.1413 ("Act")" (section references in this letter are to that Act). As I explained briefly on Monday, the Disposition Transaction did not violate the Act and did not require any prior filing with or approval from the Department.

Your letter goes on to specify three sections of the Act that you believe may have been violated. I will address each in turn.

The Form A Statute

First, you state that there may have been a violation of §1402 (the "Form A Statute"). You add that the Form A Statute and other laws "require the prior approval by the Department of any transaction which would effectuate a change in control of a Pennsylvania domestic insurer," (emphasis added).

I respectfully submit that your description of the Form A Statute misstates the law. The Form A statute provides that no person may acquire control of a Pennsylvania domestic insurer, such as Lincoln, whether by acquisition of stock or otherwise, unless such person has first made the required filings with the Department and the acquisition of control has been approved by the Department. But the very language you quote in your letter indicates that the Form A Statute: (a) does not require any filing or approval for an acquisition of stock (or an interest in stock) that does not constitute an acquisition of control, and (b) does not apply to a circumstance in which a person divests itself of control.

This distinction in the Form A Statute between an acquisition of control and a disposition of control (and the lack of application of the Form A Statute to an acquisition of stock that does not constitute an acquisition of control) is no mere technical reading of the law. Rather, it flows from and is consistent with the function and purpose of the Form A Statute, which is to provide the Department with an opportunity to determine whether a person who would control an insurance company is of such character, competence and financial condition as would be consistent with the best interests of the insurer and its policyholders.

Accordingly, the requirements of the Form A Statute apply only to a transaction in which a person would acquire control of an insurer. The term "control" is expressly defined. It means: "The possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services or otherwise, unless the power is the result of an official position with or corporate office held by the person. . . ." §1401. While the existence of "control" is a factual matter, the definition goes on to say that "Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten per centum (10%) or more of the voting securities of any other person. . . ." §1401.

In the case of the Disposition Transaction, no New Shareholder has, to the knowledge of Kingsway, acquired voting power or any other rights that would give it actual control of Walshire or of Lincoln, and no New Shareholder owns a percentage of Walshire's common stock that would give rise to a presumption of control under the Form A Statute (10% of the voting stock). Accordingly, no prior filing or approval under the Form A Statute was required for the Disposition Transaction.

In any event, in the case of a transaction in which a person were to acquire or seek to acquire control of Lincoln, the statutory obligation to make the filings and receive approval under the Form A Statute would fall squarely on the acquiring party, not on a person disposing of control, or on anyone else.

The Form E Statute

Second, while not entirely clear, you seem to say at the top of page 2 of your letter, that the Disposition Transaction may have violated §1403 (the "Form E Statute"). The purpose of the Form E statute is to provide the Department with an opportunity to review transactions that may have an anti-competitive effect on the insurance marketplace, even if no Form A Statute filing and approval is required for the transaction.

The Form E Statute obviously does not apply to the Disposition Transaction. The Form E Statute itself provides an express exemption for transactions in which there is no increase in any party's market share. §1403(b)(2)(v)(B). To the knowledge of Kingsway, none of the New Shareholders is involved in an insurance business. Accordingly, there is no increase in market share on the part of any insurer or group of affiliated insurers as a result of the Disposition Transaction. The Disposition Transaction falls squarely within the exemption.

In any event, as a threshold matter, the Form E Statute is not even implicated in a transaction unless there is an acquisition of control. While §1403(b)(1) provides that the Form E Statute "applies to any acquisition in which there is a change in control of an insurer" (emphasis added), §1403(a) explains that the term "acquisition" means only an acquisition "which results in a person acquiring . . . the control of another person" (emphasis added). There was no such acquisition of control in the Disposition Transaction and, accordingly, no prior filing or approval under the Form E Statute was required for the Disposition Transaction.

The Form D Statute

Third, you assert that there may have been a violation of §1405 (the "Form D Statute"), and you cite §1405(a)(2)(ii) although the language you paraphrase is from §1405(a)(2)(i). The Disposition Transaction did not involve either provision of the Form D Statute.

The provisions that you cite from the Form D Statute apply only to "transactions involving a domestic insurer [on the one hand] and any person in its holding company system on [the other hand]." §1405(a)(2). In other words, those provisions of the Form D Statute apply to transactions within and among members of a holding company system (and, in some instances,

transactions that have the effect of such inter-company transactions, even if structured with a non-affiliate). The Disposition Transaction was entered into with 20 third parties, namely, 20 separate and independent New Shareholders.

In addition, there was no sale, purchase, exchange, pledge of, or any other transaction involving Lincoln's assets. §1405(a)(2)(i). Nor were any loans or extensions of credit made to any person, whether an affiliate or not. §1405(a)(2)(ii). The Form D statute is simply inapplicable and has no bearing on the Disposition Transaction.

This analysis of the Form D Statute is, as with my analysis of the Form A Statute and the Form E Statute, no mere technical reading of the law. Rather, it flows from and is consistent with the function and purpose of the Form D Statute, which is to provide the Department with an opportunity to monitor transactions between an insurance company and members of its insurance holding company system to assure that such affiliated party transactions do not deplete the assets or resources of the insurer. The Disposition Transaction did not involve Lincoln or its assets in the sense contemplated by the Form D Statute. The Disposition Transaction was not a transaction between affiliated parties and it leaves Lincoln's assets subject to the regulatory oversight of the Pennsylvania Insurance Department and available to the policyholders of Lincoln. No prior notification or non-disapproval was required under the Form D Statute for the Disposition Transaction.

* * * * *

The above completes my legal analysis of the Disposition Transaction under the Act. Beyond that legal analysis, Kingsway asked me to put into writing some of the points that Colin Simpson made to you during our telephone conversation on Monday.

As an initial matter, you should understand that KAI effectuated the Disposition Transaction in order to remove Lincoln from Kingsway's consolidated group of companies and avoid the potential future default under Kingsway's debt indentures that would have occurred had Lincoln remained a member of the consolidated group and were placed into formal supervision, rehabilitation or liquidation. Default under the indentures would jeopardize the continuing viability of Kingsway. With the Disposition Transaction, Lincoln ceases to be a consolidated subsidiary of Kingsway.

The points that Mr. Simpson emphasized are:

- Kingsway has been performing, and will continue to honor, its contractual obligations with respect to Lincoln (for example, the \$10 million surplus note loan).
- The purpose of the Disposition Transaction was not in any respect an attempt to avoid any legal obligation of Kingsway. Kingsway understands and agrees that

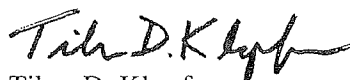
the Disposition Transaction will not have the effect of diminishing or relieving Kingsway of any legal obligation to Lincoln.

- The purpose of the Disposition Transaction was to help maintain Kingsway's financial viability. That is an important matter to Lincoln and its policyholders, so that Kingsway remains financial able to perform its continuing obligations to Lincoln.
- The Disposition Transaction is also important to Kingsway's other insurance companies and their policyholders.
- Kingsway believes that the Disposition Transaction has had and will have no adverse effect on Lincoln's policyholders, and Kingsway believes that the transaction is beneficial to the policyholders since it helps to continue Kingsway's financial viability.

* * * * *

Thank you for the opportunity to submit this letter. I hope that it provides you with the assurance that Kingsway and KAI did not, and would not, violate the Act. Please call me if you have any questions about this letter.

Yours very truly,



Tibor D. Klopfer

TDK:jal

EXHIBIT E



October 26, 2009

John Risner, President
Children's Tumor Foundation
95 Pine Street, 16th Floor
New York, NY 10005

Re: *Kingsway Financial Services, Inc. Attempted Donation of Shares of Stock of
Walshire General Assurance Company*

Dear Mr. Risner:

The Pennsylvania Insurance Department ("Department") has been notified that your charity may have recently received shares of stock of Walshire General Assurance Company ("Walshire") from Kingsway Financial Services, Inc. ("Kingsway") or one of its affiliates. The Department is writing to inform you that Kingsway may be in violation of Pennsylvania law in attempting this donation; and therefore, the Department encourages your organization to consider rejecting the donation and returning the shares to Kingsway.

By way of brief background, Walshire is a wholly-owned subsidiary within the Kingsway consolidated group of companies. It is also the sole shareholder of Lincoln General Insurance Company ("Lincoln General"). Lincoln General is a Pennsylvania domestic insurance company regulated by the Department. Over the past two years, Lincoln General has been experiencing reserve shortfalls. As a result, the company is currently running-off its business with the consent of, and oversight by, the Department.

As you may have guessed, given Lincoln General's current financial situation and financial outlook, having Lincoln General within the Kingsway group of companies poses some real difficulties for Kingsway. It appears that because of Lincoln General's ongoing financial distress, Kingsway is attempting to divest itself of all of Lincoln General's stock; and thus, its responsibility, through donations to charitable organizations including Children's Tumor Foundation. In essence, Kingsway is seeking to shift its responsibility onto the backs of the charitable organizations to which it has made these "donations." Because of this, and the potential illegality of Kingsway's donation, the Department is reaching out to the charitable organizations to caution them concerning assuming liability that they did not want and control of a company that they did not seek. To that end, the Department strongly recommends that Children's Tumor Foundation reject the donation and return the shares to Kingsway.

Page 2

October 26, 2009

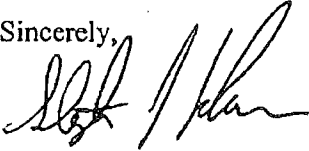
Re: *Kingsway Financial Services, Inc. Attempted Donation of Shares of Stock of
Walshire General Assurance Company*

The shares should be returned to:

Colin Simpson
President and CEO
Kingsway Financial Services, Inc.
7120 Hurontario St., Suite 800
Mississauga, Ontario L5W 0A9

If the Department can assist you in any way regarding this matter, please do not hesitate to call.
I personally can be reached at (717) 783-2142.

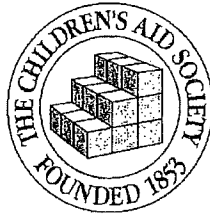
Sincerely,



Stephen J. Johnson, CPA
Deputy Insurance Commissioner
Office of Corporate and Financial Regulation

cc: Colin Simpson, Kingsway Financial Services, Inc.
Gary J. Orndorff, President, Lincoln General Insurance Company
Amy Daubert, Chief Counsel, Pennsylvania Insurance Department
Nicholas Murray, Financial Analyst, Pennsylvania Insurance Department
Roseanne Placey, Press Office, Pennsylvania Insurance Department

EXHIBIT F



October 27, 2009

Mr. Colin Simpson
President and CEO
Kingsway Financial Services, Inc.
7120 Hurontario St., Suite 800
Mississauga, Ontario L5W 0A9
CANADA

Dear Mr. Simpson:

Enclosed please find stock certificate number NC-12 evidencing the 226,122.55 shares of Walshire Assurance Company common stock that your company delivered to The Children's Aid Society on October 19, 2009. By taking this action, we are complying with the strong recommendation of The Office of Corporate and Financial Regulation of the Pennsylvania Insurance Department to reject the donation of the Walshire Assurance Company common stock and to return the stock certificate to you.

While we were not able to accept the gift of the Walshire Assurance Company common stock, we appreciate your consideration of The Children's Aid Society for this donation. If you have any questions, please feel free to contact me at 212-381-1196.

Sincerely,

T.C. Tang
Business Manager, Development

CC: Angelique C. Mamby Pannell, General Counsel, The Children's Aid Society
Stephen J. Johnson, Deputy Insurance Commissioner, Office of Corporate
and Financial Regulation, Pennsylvania Insurance Department

NC-12



226-112-55

See Reverse for
Certain Particulars

Incorporated under the laws of the Commonwealth of Pennsylvania
Walshte Assurance Company
Common Stock

This is to Certify that CHILDRENS AID SOCIETY

is the owner of

Two Hundred Twenty-six Thousand One Hundred Twelve and Eight-Five Hundredths fully paid and non-assessable shares of the above Corporation transferable only on the books of the Corporation by the holder thereof in person or by a duly authorized Attorney upon surrender of this Certificate properly endorsed.

Witness, the seal of the Corporation and the Signature of its duly authorized officers,
Dated October 19, 2009

Joseph B. Bell

Joseph B. Bell

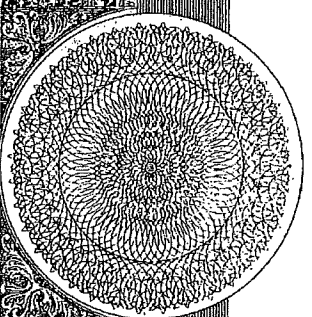


EXHIBIT G

Children's
Tumor
Foundation

Ending Neurofibromatosis Through Research

October 28, 2009

Mr. Colin Simpson
President & CEO
Kingsway Financial Services, Inc.
7120 Hurontario St., Suite 800
Mississauga, Ontario L5W 0A9

Dear Mr. Simpson:

Please find enclosed the following items:

1. Walshire Associates stock certificate donated to us on Monday, October 19, 2009
2. Our check for \$20,000.00 payable to Kingsway Financial Services Inc.
3. Copy of Kingsway Financial Services Inc. check to us for \$20,000.00
4. Copy of our signed receipt of gift.
5. Copy of a letter dated October 26, 2009 from Stephen J. Johnson, Deputy Insurance Commissioner of Pennsylvania.

We were not aware at the time of receiving this gift of the history of the shares, or the intent in making this gift. Given the substance of the letter, we do not have the desire or the resources to become a party to a regulatory dispute of this nature.

Should you arrive at an agreement with the Insurance Commissioner, and they approve of Kingsway Financial making this gift, we would be pleased to accept it. I hope you understand our being involved at this time is outside the scope of our mission.

Regards,



John W. Risner
President

Enclosures

Cc: Mr. Stephen Johnson
Mr. Gary Orndorff



NC-17

Incorporated under the laws of the Commonwealth of Pennsylvania

Walshire Assurance Company
Common Stock

226,112.55

See Entries in
Certain Registers

This is to Certify that Childrens Tumor Foundation

is the owner of

TEN THOUSAND SIX THIRTY ONE HUNDRED TWENTY AND FOUR-FIVE HUNDRED

AND FIFTY non-assessable shares of the above Corporation transferable only on the books of the Corporation
by the holder thereof in person or by a duly authorized attorney when surrender of this Certificate
properly endorsed.

Witness, the seal of the Corporation and the Signatures of its duly authorized officers.

Dated October 19, 2005

Joseph E. Lowell
Secretary

Joseph E. Lowell
President

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	— as tenants in common	UNIF GIFT MIN ACT —	Custodian
TEN ENT	— as tenants by the entireties		(Cust) (Minor)
JT TEN	— as joint tenants with right of survivorship and not as tenants in common		under Uniform Gifts to Minors Act (State)

Additional abbreviations may also be used though not in the above list.

For value received, _____ hereby sell, assign and transfer unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

[Empty box for Social Security or other identifying number]

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS INCLUDING POSTAL ZIP CODE OF ASSIGNEE)

_____ Shares represented by the within Certificate, and do hereby irrevocably constitute and appoint

_____ Attorney to transfer the said Shares on the books of the within named Corporation with full power of substitution, in the premises.

Dated _____

In presence of _____

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS APPEARS UPON THE FACE OF THE CERTIFICATE. IT IS VERY PARTICULAR WITHOUT ATTENTION OR EXAMINATION OR ANY CHANGE THEREIN.

030270

To: Kingsway Financial Services Inc

10/28/2009

CHILDREN'S TUMOR FOUNDATION

INVOICE NUMBER	DATE	DESCRIPTION	AMOUNT	DISCOUNT	NET AMOUNT
102809	10/28/2009	Refund of Donation	\$20000.00	\$0.00	\$20000.00
		Totals:	\$20000.00	\$0.00	\$20000.00

030270

To: Kingsway Financial Services Inc

10/28/2009

CHILDREN'S TUMOR FOUNDATION

INVOICE NUMBER	DATE	DESCRIPTION	AMOUNT	DISCOUNT	NET AMOUNT
102809	10/28/2009	Refund of Donation	\$20000.00	\$0.00	\$20000.00
		Totals:	\$20000.00	\$0.00	\$20000.00

THIS DOCUMENT MUST HAVE A COLORED BACKGROUND, ULTRAVIOLET FIBERS AND AN ARTIFICIAL WATERMARK ON THE BACK COVER FOR AUTHENTICITY.

CHILDREN'S TUMOR FOUNDATION
95 PINE STREET, 16TH FLOOR
NEW YORK, NEW YORK 10005

CITIBANK, N.A. BR#3
111 WALL STREET
NEW YORK, NY 10005
1-8-210

030270

CHECK DATE

CHECK NO.

10/28/2009

30270

CHECK AMOUNT

PAY

Twenty thousand and 00/100 Dollars

\$** 20000.00

TO THE
ORDER
OF

Kingsway Financial Services Inc
Attn: Colin Simpson
7120 Hurontario St. Suite 800
Mississauga ON L5W 0A9

VOID 6 MONTHS AFTER DATE OF ISSUE
CHECKS OVER \$7500 REQUIRES 2 SIGNATURES

George Anastasiadis
John Smith
AUTHORIZED SIGNATURE

⑈030270⑈ ⑆021000089⑆ ⑈05914290⑈

Details on Back Security Features Included

ENDORSE HERE:

X

MP

DO NOT SIGN / WRITE / STAMP BELOW THIS LINE
FOR FINANCIAL INSTITUTION USAGE ONLY

Security Features	Results of document alterations:
Microprint Line	- Small irregularities in the line appear as error or same line taken apart.
Chemical Stain with Six Languages VOID	- "VOID" appears in six languages with chemical alteration.
Background Pattern	- Absence of blue wave colored background pattern on face and sides would be visible.
Artificial Watermark	- Absence of artificial watermark on back.
Invisible Fluorescent Fibres	- Absence of bright glowing threads when viewed under ultraviolet (black) light.

© 2007 Printed on behalf of the Bank of Canada. Printed in Canada. 25/06/07

KINGSWAY FINANCIAL SERVICES INC
DETAILS
CHARITABLE DONATION

DATE
10/18/2009

00003051
AMOUNT
20,000.00

CHEQUE TOTAL: 20,000.00



KINGSWAY FINANCIAL SERVICES INC.
7120 Hurontario Street, Suite 800, Mississauga, Ont L5W 0A9

PAYABLE THROUGH THE BANK OF NOVA SCOTIA, 1 LIBERTY PLAZA, NEW YORK, NY, 10006

BNS SCOTIA PLAZA
44 KING ST. WEST
TORONTO, ON, M5H 1H1

DATE 10 18 2009
MM DD YYYY

00003051

PAY: Twenty Thousand Dollars and Zero Cents

TO THE ORDER OF:

CHILDRENS TUMOR FOUNDATION

120 WALL ST.
16TH FLOOR
NEW YORK NY

\$*****20,000.00

USD FUNDS

PER 

AUTHORIZED OFFICIAL



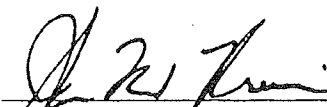
PER AUTHORIZED OFFICIAL

⑆00003051⑆ ⑆026002532⑆ 85467⑆ 1⑆0⑆

RECEIPT OF GIFT

Childrens Tumor Foundation (print name of organization) hereby acknowledges receipt of and accepts the following gift: (i) from Kingsway America Inc., Stock Certificate No NC-17, representing 226,112.55 shares of the common stock of Walshire Assurance Company issued in our name, and accepts delivery of same; and (ii) from Kingsway Financial Services, Inc., a check of \$20,000.00.

Federal Tax Identification Number: 132298956

By: 

Name: John W. Risner

Title: President



October 26, 2009

John Risner, President
Children's Tumor Foundation
95 Pine Street, 16th Floor
New York, NY 10005

*Re: Kingsway Financial Services, Inc. Attempted Donation of Shares of Stock of
Walshire General Assurance Company*

Dear Mr. Risner:

The Pennsylvania Insurance Department ("Department") has been notified that your charity may have recently received shares of stock of Walshire General Assurance Company ("Walshire") from Kingsway Financial Services, Inc. ("Kingsway") or one of its affiliates. The Department is writing to inform you that Kingsway may be in violation of Pennsylvania law in attempting this donation; and therefore, the Department encourages your organization to consider rejecting the donation and returning the shares to Kingsway.

By way of brief background, Walshire is a wholly-owned subsidiary within the Kingsway consolidated group of companies. It is also the sole shareholder of Lincoln General Insurance Company ("Lincoln General"). Lincoln General is a Pennsylvania domestic insurance company regulated by the Department. Over the past two years, Lincoln General has been experiencing reserve shortfalls. As a result, the company is currently running-off its business with the consent of, and oversight by, the Department.

As you may have guessed, given Lincoln General's current financial situation and financial outlook, having Lincoln General within the Kingsway group of companies poses some real difficulties for Kingsway. It appears that because of Lincoln General's ongoing financial distress, Kingsway is attempting to divest itself of all of Lincoln General's stock; and thus, its responsibility, through donations to charitable organizations including Children's Tumor Foundation. In essence, Kingsway is seeking to shift its responsibility onto the backs of the charitable organizations to which it has made these "donations." Because of this, and the potential illegality of Kingsway's donation, the Department is reaching out to the charitable organizations to caution them concerning assuming liability that they did not want and control of a company that they did not seek. To that end, the Department strongly recommends that Children's Tumor Foundation reject the donation and return the shares to Kingsway.

Page 2

October 26, 2009

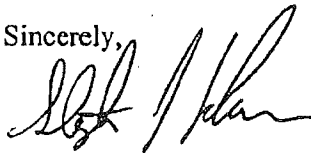
Re: *Kingsway Financial Services, Inc. Attempted Donation of Shares of Stock of
Walshire General Assurance Company*

The shares should be returned to:

Colin Simpson
President and CEO
Kingsway Financial Services, Inc.
7120 Hurontario St., Suite 800
Mississauga, Ontario L5W 0A9

If the Department can assist you in any way regarding this matter, please do not hesitate to call.
I personally can be reached at (717) 783-2142.

Sincerely,



Stephen J. Johnson, CPA
Deputy Insurance Commissioner
Office of Corporate and Financial Regulation

cc: Colin Simpson, Kingsway Financial Services, Inc.
Gary J. Orndorff, President, Lincoln General Insurance Company
Amy Daubert, Chief Counsel, Pennsylvania Insurance Department
Nicholas Murray, Financial Analyst, Pennsylvania Insurance Department
Roseanne Placey, Press Office, Pennsylvania Insurance Department

EXHIBIT H



KINGSWAY FINANCIAL SERVICES INC.

7120 Hurontario Street, Suite 800, Mississauga, Ontario L4W 5H8

October 27, 2009

Children's Tumor Foundation
95 Pine Street, 16th floor
New York, NY 10005
U.S.A.

Re: Recent Gift

Dear Sirs/Madams:

I am writing with regard to the recent gift that Kingsway made to your organization, consisting of \$20,000 and some shares of common stock of Walshire Assurance Company. I understand that you may have received a letter or other communication from a representative of the Pennsylvania Insurance Department questioning our gift.

The gift complied with all applicable laws and your organization will not incur any legal liability as a shareholder of Walshire. Kingsway chose to divest itself of the Walshire stock for legitimate business purposes. Let me be clear: there is no risk to your organization in owning the shares of Walshire, and you do not need to return them. Indeed, we cannot accept them back.

Please understand that we are in an ongoing dispute with the Department – which is why they may try to contact you. We believe that any assertion by the Department that the gift did not comply with law, or any suggestion that you, as a shareholder of Walshire, have potential liability, is not only incorrect but also inappropriate.

While it is true that the Walshire stock is not tradable on any stock exchange and most likely has no value, in the event that it does ultimately prove to have value, we hope that you will be able to put it to good use to further the charitable purposes of your organization. If you have any questions, please call me, at (212) 233-7400.

Yours very truly

Spencer Schneider,
Chairman of the Board,
Kingsway Financial Services Inc.

cc: Pennsylvania Department of Insurance (with redactions)

EXHIBIT I

RECEIVED

DEC 07 2009

CHIEF COUNSEL
INSURANCE DEPARTMENT



ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624
WWW.ROPESGRAY.COM

December 4, 2009

David A. McKay
617-951-7425
617-235-0074 fax
david.mckay@ropesgray.com

BY OVERNIGHT COURIER

Mr. Spencer Schneider
Chairman of the Board
Kingsway Financial Services Inc.
7120 Hurontario Street
Suite 800
Mississauga, Ontario L4W 5H8
CANADA

Re: Attempted Gifts

Dear Mr. Schneider:

I am writing to you on behalf of my client, A Better Chance Inc. regarding your attempted gifts of \$20,000 and stock in Walshire Assurance Company.

On October 19, 2009, your messenger delivered a \$20,000 check and a stock certificate to the offices of A Better Chance. As we have told you these attempted gifts were fatally defective from the start in that the proposed donee on each was "A Better Chance/City Limits", an entity that to the best of our knowledge does not exist. The following day, Sandra Timmons, President of A Better Chance, sent you a letter informing you of its refusal to accept your flawed attempted gifts and returning the check and stock certificate therewith.

The following week, A Better Chance received a new properly issued check made payable to "A Better Chance", and then received a letter from you dated October 27, 2009 in which you enclosed the original stock certificate and stated that you could not accept it back. A Better Chance then sent you a letter dated November 5, 2009, reiterating that it had not, could not and would not accept your original attempted gifts, but would cash the properly issued check if it did not hear back from you by November 20, 2009. With that letter, A Better Chance once again returned the original stock certificate to you.

A Better Chance then received what appear to be form letters from you dated November 18, 2009 and November 23, 2009, with which you again returned the original stock certificate, and learned that the Pennsylvania Insurance Department filed a complaint against your company in connection with your attempted gifts to A Better Chance and to others. Your insistence that A Better Chance must accept your attempted gifts, and the Pennsylvania Insurance Department's reaction to your

ROPES & GRAY LLP

Mr. Spencer Schneider

- 2 -

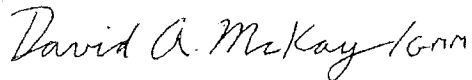
December 4, 2009

attempted gifts, are troubling. A Better Chance made it clear to you from the outset that your attempted gifts were unacceptable and undesirable. A Better Chance is a charitable organization whose mission is to increase substantially the number of well-educated young people of color who are capable of assuming positions of responsibility and leadership in American society. This situation is a distraction from and financial drain on that mission. Accordingly, in response to your latest letters, and in an effort to avoid any continued involvement in this matter, A Better Chance is hereby rejecting your revised \$20,000 check. A Better Chance will return the check and stock certificate to you shortly. Please do not return the check, the stock certificate or any other attempted gifts to A Better Chance.

Finally, in response to your letter dated November 23, 2009, A Better Chance thanks you for the offer of legal counsel, but is rejecting that offer as well. Again, A Better Chance could not and did not accept your attempted gifts and needs no further advice in this regard. A Better Chance has now been named by the Pennsylvania Insurance Department in its complaint. Please be advised that if you persist in your attempts to press this rejected, defective gift, A Better Chance will hold you fully responsible for the full cost, including legal fees, of extricating itself from this mess created unilaterally by you.

Please direct all future correspondence regarding this matter to me.

Sincerely yours,

A handwritten signature in cursive script that reads "David A. McKay" followed by a small mark that appears to be "GMM".

David A. McKay

DAM:GMM

cc: A Better Chance Inc.
/ Pennsylvania Insurance Department
Ogilvy Renault, LLP

EXHIBIT J

AFB American Foundation® for the Blind

Expanding possibilities for people with vision loss

HR

2 Penn Plaza | Tel 212.502.7600
Suite 1102 | Fax 212.502.7777
NY, NY 10121 | www.afb.org

November 30, 2009

Sent via Certified Mail

Mr. Spencer Schneider
Chairman of the Board
Kingsway Financial Services, Inc.
7120 Hurontario Street, Suite 800
Mississauga, Ontario L4W 5H8
CANADA

Kingsway America, Inc
150 Northwest Point Blvd.
Elk Grove Village, IL 60007

DEC 8 PM 2:57

Gentlemen:

I am writing to you on behalf of the American Foundation for the Blind ("AFB") with regard to a proposed gift of the following items delivered to AFB by messenger on October 19, 2009:

- 1) from Kingsway America, Inc., a stock certificate no. NC-14 representing 226,112.55 shares of Walshire Assurance Company, common stock (the "Stock"); and
- 2) from Kingsway Financial Services, Inc., a check in the amount of \$20,000 (the "Check").

The acceptance of gifts by AFB is subject to the Gift Acceptance Policy of AFB adopted in August 2002, pursuant to which securities "which are not publicly traded or otherwise not readily marketable" may be accepted on a case by case basis only after review and approval by the Chief Financial Officer or the Treasurer of AFB. Based upon an internal review of the facts and circumstances, including your statement that the shares have no value, and advice of our counsel, we regret to inform you that AFB has determined not to accept the Stock from Kingsway America, Inc. and, accordingly, we are hereby returning the stock certificate to you. The stock certificate was re-registered by Kingsway America, Inc. and Walshire Assurance Company in our name in advance of delivery to us and without any prior authorization, which we view as a nullity. You are authorized and directed to cancel the stock certificate or cause the Company's Transfer Agent, if any, to do so. If there is a Transfer Agent, please advise us of its name and address and provide it with a copy of this letter.

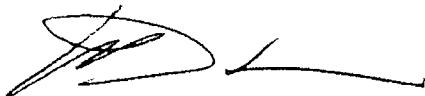
Inasmuch as we understand that Walshire Assurance Company and/or its subsidiary, Lincoln General, are companies regulated by the Pennsylvania Insurance Department, we require that you notify it that AFB has rejected the proposed donation of Stock and has not assumed

Incorporated in 1921

ownership of an interest in Walshire Assurance Company. You are also instructed to not communicate to any other public or private source that AFB has acquired an interest in Walshire Assurance Company, and retract any prior communications or notices to that effect.

As noted above, we also received a check in the amount of \$20,000 from Kingsway Financial Services, Inc., which we are holding. We would be pleased to accept this Check as a donation unless you confirm to us that it was intended to be made conditional upon AFB's acceptance of the Stock, in which case we will also return the Check to you. If we do not hear from you within seven (7) business days, we will assume that the Check was an unconditional cash gift from Kingsway Financial Services, Inc. and that we may deposit the Check into our account to be applied for the general purposes of AFB.

Sincerely,

A handwritten signature in black ink, appearing to read 'Walter L. Decker', with a long horizontal flourish extending to the right.

Walter L. Decker
Executive Vice President

cc: Colin Simpson, President and CEO, Kingsway Financial Services, Inc.
Walshire Assurance Company



NC-14

226,125

See Reverse for
Certain Particulars

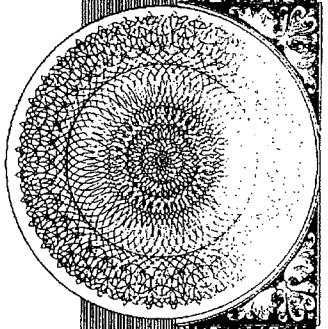
Incorporated under the laws of the Commonwealth of Pennsylvania

Walshire Assurance Company Common Stock

This is to Certify that American Foundation For The Blind is the owner of
Two Hundred Twenty-six Thousand One Hundred Twelve and Fifty-five hundredths
non-assessable shares of the above Corporation transferable only on the books of the Corporation
by the holder thereof in person or by a duly authorized Attorney upon surrender of this Certificate
properly endorsed.

Witness, the seal of the Corporation and the Signatures of its duly authorized officers.

Dated
October 19, 2008



Joseph Selwood
Secretary

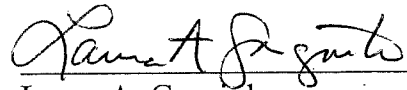
Joseph Selwood
President

Certificate of Service

I, Laura A. Gargiulo, hereby certify that on the date set forth below, I caused to be served via Certified First Class U.S. Mail a true and correct copy of the foregoing document upon:

William M. McSwain, Esquire
Drinker Biddle & Reath LLP
One Logan Square
18th & Cherry Streets
Philadelphia, PA 19103-6996
Counsel for Plaintiffs

Dated: 12/21/09



Laura A. Gargiulo