

No. 01-0820

OFFICIAL ORDER
of the
COMMISSIONER OF INSURANCE
of the
STATE OF TEXAS
AUSTIN, TEXAS

Date **AUG 28 2001**

Subject Considered: ACQUISITION OF
AMERICAN GENERAL ANNUITY INSURANCE COMPANY
Amarillo, Texas
AMERICAN GENERAL LIFE INSURANCE COMPANY
THE NATIONAL LIFE AND ACCIDENT INSURANCE COMPANY
THE VARIABLE ANNUITY LIFE INSURANCE COMPANY
Houston, Texas
Subsidiaries of
AMERICAN GENERAL CORPORATION
A Texas Corporation
by
AMERICAN INTERNATIONAL GROUP, INC.
A Delaware Corporation
HCS No. 31161
Docket No. 2493

General remarks and official action taken:

On this day came for consideration by the Commissioner of Insurance, the application of AMERICAN INTERNATIONAL GROUP, INC., a Delaware corporation, hereinafter referred to as the APPLICANT, for approval of its acquisition of control of AMERICAN GENERAL ANNUITY INSURANCE COMPANY, Amarillo, Texas, AMERICAN GENERAL LIFE INSURANCE COMPANY, THE NATIONAL LIFE AND ACCIDENT INSURANCE COMPANY, and THE VARIABLE ANNUITY LIFE INSURANCE COMPANY, Houston, Texas, hereinafter referred to as AG ANNUITY, AGL-TEXAS, NATIONAL LIFE, and VALIC, respectively, subsidiaries of AMERICAN GENERAL CORPORATION, a Texas corporation, hereinafter referred to as AGC, and together with AG ANNUITY, AGL-TEXAS, NATIONAL LIFE, and VALIC, collectively hereinafter referred to as the DOMESTIC INSURERS.

On August 28, 2001, an informal informational public hearing concerning the application was held before Commissioner Jose Montemayor in Room 100 of the William P. Hobby State Office Building, 333 Guadalupe, Austin, Texas. The Commissioner's staff was represented by Betty Patterson, Senior Associate Commissioner, Financial Program; Sara Waitt, Senior Associate Commissioner, Legal and Compliance; Eric Magee, Staff Attorney, Financial Counsel Section; and Eileen J. Shiller, Holding Company Specialist and Kim Trinkaus, Analyst, Financial Analysis and Examinations. The APPLICANT was represented by Thomas J. Bond, Esq. and Ernest T. Patrikis, Senior Vice President and General Counsel of APPLICANT. The DOMESTIC INSURERS were represented by

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Will D. Davis, Esq. and Mark Berg, General Counsel, American General Corporation.

The Commissioner of Insurance has jurisdiction over the application pursuant to TEX. INS. CODE ANN. art. 21.49-1 and 28 TEX. ADMIN. CODE §7.205. Notice of the hearing, dated August 3, 2001, was properly addressed and sent by facsimile and by certified mail, return receipt requested, to the APPLICANT and to the DOMESTIC INSURERS and contained a statement of the time, place and nature of the hearing, and a statement of the matters asserted and of the legal authority and jurisdiction under which the hearing was to be held.

The APPLICANT and the duly authorized representatives of the DOMESTIC INSURERS have consented to the entry of this order and request the Commissioner of Insurance to informally dispose of this matter pursuant to the provisions of TEX. GOV'T CODE ANN. § 2001.056 and 28 TEX. ADMIN. CODE § 1.47.

WAIVER

The APPLICANT and the DOMESTIC INSURERS acknowledge the existence of their rights, a proposal for decision, rehearing by the Commissioner of Insurance, and judicial review of this administrative action, as provided in TEX. INS. CODE ANN. §§ 36.201-36.205, 82.051-82.055, and art. 21.49-1, § 5, and TEX. GOV'T CODE ANN. §§ 2001.051-2001.902.

FINDINGS OF FACT

Based upon the information submitted to and reviewed by the Texas Department of Insurance, the Commissioner of Insurance makes the following Findings of Fact:

1. AG ANNUITY, AGL-TEXAS, NATIONAL LIFE, and VALIC are domestic stock life insurance companies duly licensed in the State of Texas pursuant to the provisions of Chapter 3 of the Texas Insurance Code.
2. AGC is publicly traded and its Common Stock is listed on the New York, Pacific, London and Swiss stock exchanges. AGC is a life insurance and financial services holding company and is one of the nation's largest diversified financial services organizations. As of March 31, 2001, AGC had assets of approximately \$124.4 billion, redeemable equity of approximately \$2.1 billion, and shareholders' equity of approximately \$8.6 billion.
3. APPLICANT is publicly traded on the New York Stock Exchange and is a holding company, which, through its subsidiaries, is engaged in a broad range of insurance financial services activities in the United States and abroad. APPLICANT'S

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primary activities include general, life insurance, financial services and asset management operations. One or more of APPLICANT's subsidiaries is licensed to write life or general (property and casualty) insurance in all states of the United States and in over 140 foreign countries. As of March 31, 2001, APPLICANT had assets of approximately \$321.0 billion, preferred shareholders' equity in subsidiary companies of \$1.2 billion, and capital funds of \$41.7 billion.

4. Washington Acquisition Corporation, a Texas corporation, hereinafter referred to as Merger Sub, is a wholly owned subsidiary of APPLICANT formed for the purpose of effecting the acquisition of control of the DOMESTIC INSURERS.
5. Pursuant to an Agreement and Plan of Merger dated as of May 11, 2001, among AGC, APPLICANT, and Merger Sub, Merger Sub will be merged with and into AGC with AGC surviving the merger. The Agreement and Plan of Merger contemplates that, for United States federal income tax purposes, the merger shall qualify as a reorganization under the provisions of Section 368(a) of the Internal Revenue Code of 1986. Further, the agreement indicates that the Merger will be accounted for as a "pooling of interests" under United States Generally Accepted Accounting Principles. The Merger shall become effective (the "Effective Time") upon the issuance of a certificate of merger by the Secretary of State of the State of Texas in response to the filing of the Articles of Merger or at such later date and time as may be set forth in such Articles of Merger.
6. Pursuant to the Agreement and Plan of Merger, each Common Share of AGC issued and outstanding immediately prior to the Effective Time (excluding any Common Shares held by AGC, APPLICANT, or any wholly owned subsidiary of AGC or APPLICANT) shall be converted into the right to receive a number of shares of APPLICANT Common Stock equal to:

If the daily average high and low sales price per share of APPLICANT's Common Stock on the New York Stock Exchange for the ten trading days ending on the third trading day prior to completion of the Acquisition is:

(a) \$84.22 per share or greater, AGC shareholders will be entitled to receive .5462 of a share of APPLICANT's Common Stock for each share of AGC Common Stock;

(b) less than \$84.22 per share but greater than \$76.20 per share, AGC shareholders will be entitled to receive that fraction of a share of APPLICANT Common Stock equal to the quotient obtained by dividing (i) \$46.00 by (ii) the ten-day

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average of APPLICANT's Common Stock price for each share of AGC Common Stock: or

(c) \$76.20 per share or less, AGC shareholders will be entitled to receive .6037 of a share of APPLICANT's Common Stock for each share of AGC Common Stock.

APPLICANT will pay AGC shareholders the value of any fractional shares in cash rather than issuing any fractional shares of APPLICANT's Common Stock. The aggregate consideration to be paid by the APPLICANT in the acquisition will depend on the trading price of APPLICANT's Common Stock. The aggregate value of the APPLICANT's Common Stock to be issued in the acquisition for all of the shares of AGC Common Stock is approximately \$22.9 billion based on APPLICANT's recent share price activity.

7. APPLICANT and AGC have established an Integration Committee principally responsible for integration matters relating to the Merger. The Integration Committee will also be responsible for proposing alternatives and recommendations in connection with the integration of the two companies and their respective businesses, assets and organizations. The members of the Integration Committee consist of Maurice R. Greenberg, Chairman of the Board and Chief Executive Officer of APPLICANT; Robert Devlin, Chairman of the Board and Chief Executive Officer of AGC; Lawrence English, Senior Vice President-Administration of APPLICANT; Axel Freudmann, Senior Vice President-Human Resources of APPLICANT; John A. Graf, Senior Vice Chairman of AGC; Rodney O. Martin, Jr., Senior Vice Chairman of AGC; Win Neuger, Senior Vice President and Chief Investment Officer of APPLICANT; Howard Smith, Executive Vice President and Chief Financial Officer of APPLICANT; Jay Wintrob, President and Chief Executive Officer of SunAmerica, a wholly owned subsidiary of APPLICANT; and, Gerry Wyndorf, Vice President-Life Insurance of APPLICANT.
8. The APPLICANT's Board of Directors currently has 18 directors with ten of such directors being independent and eight directors being executive officers of APPLICANT or APPLICANT's subsidiaries. As discussed in Finding of Fact 10, the Merger contemplates that Mr. Devlin will join the Board of Directors of APPLICANT as soon as practicable following completion of the Merger.
9. As of December 31, 2000, APPLICANT's major affiliated shareholders were as follows:
 - (a) Starr International Company, hereinafter referred to as SICO, a corporation organized under the laws of Panama, holds 317,518,250 shares of the outstanding common

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stock or approximately 13.6% of APPLICANT. SICO's primary purpose is to use APPLICANT's shares to reward employees of APPLICANT and its subsidiaries for their long-term service to APPLICANT;

- (b) C. V. Starr and Company, Inc., hereinafter referred to as Starr, a Delaware corporation, holds 47,659,000 shares or approximately 2.0% of the outstanding common stock of APPLICANT. Starr's primary purpose is to reward a limited group of APPLICANT employees for their long-term service;
- (c) The Starr Foundation, hereinafter referred to as Foundation, a non-profit entity, holds 63,116,000 shares or approximately 2.7% of the outstanding common stock of APPLICANT. Foundation's stated mission is to make charitable donations to medical, educational, cultural, and other charitable causes;
- (d) American Life Insurance Company, holds 61,490,000 shares or approximately 2.9% of the outstanding common stock of APPLICANT; and,
- (e) Maurice R. Greenberg holds 43,668,265 shares or approximately 1.9% of the outstanding common stock of APPLICANT.

The only person known to own in excess of 10% of APPLICANT's Common Stock is SICO. As of December 31, 2000, SICO held approximately 13.6% of APPLICANT's outstanding Common Stock. Upon consummation of the acquisition, SICO's holdings of APPLICANT's Common Stock will be reduced as a result of dilution to approximately 12%. SICO's Board of Directors are all current directors, executive officers, or employees of APPLICANT or one of its subsidiaries. The shareholders of SICO are current or former officers and/or directors of APPLICANT. No one individual owns more than 10% of the SICO voting shares. SICO, as an entity, votes its shares in one vote in favor of APPLICANT and its Board of Directors.

Therefore, on a pro forma basis, APPLICANT's related affiliates and officers and directors would own a total of approximately 22.0% of the voting shares of APPLICANT. There are no written or other voting agreements among these entities. Based on the purposes of such affiliates as described above, and on the majority of independent directors on APPLICANT's board as described in Finding of Fact 8, APPLICANT has represented that neither SICO, nor any combination of the above affiliates, exercise, and or will exercise, a controlling influence over management or

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policies of APPLICANT or any Texas domiciled insurance subsidiary of APPLICANT resulting from the Merger. Notwithstanding the foregoing representations, the Department reserves all rights, including, without limitation, the right to take further action and to make any other determination based on any change in, or addition to, the facts or circumstances relating to, or information provided to, the Department by SICO, or other affiliate of the APPLICANT, in connection with this representation of non-control; provided, however, that any revocation or modification of this representation shall be made in accordance with the provision of applicable Texas law.

10. Pursuant to an Employment Agreement dated as of May 11, 2001, to be effective upon consummation of the acquisition, Mr. Devlin, currently Chairman of the Board and Chief Executive Officer of AGC, shall serve as Vice Chairman of APPLICANT and Chairman and Chief Executive Officer of AGC, with the duties and responsibilities assigned to him by the Chief Executive Officer of APPLICANT consistent with such position commencing on the Effective Date and ending on the third anniversary thereof.
11. Pursuant to an Employment Agreement dated as of May 11, 2001, to be effective upon consummation of the acquisition, Rodney O. Martin, shall serve as Senior Vice Chairman with the duties and responsibilities associated with such position on the Effective Date, excluding responsibilities related to consumer finance, as shall be assigned to Mr. Martin by the Board of Directors or Chief Executive Officer of AGC. Mr. Martin's Employment Agreement commences on the Effective Date and ends on the third anniversary thereof.
12. Pursuant to an Employment Agreement dated as of May 11, 2001, to be effective upon consummation of the acquisition, John A. Graf, shall serve as Senior Vice Chairman with the duties and responsibilities associated with such position on the Effective Date, excluding responsibilities related to consumer finance, as shall be assigned to Mr. Graf by the Board of Directors or Chief Executive Officer of AGC. Mr. Graf's Employment Agreement commences on the Effective Date and ends on the third anniversary thereof.
13. After the change of control, the home offices will remain unchanged and the administrative offices of AG ANNUITY, AGL-TEXAS, NATIONAL LIFE, and VALIC will remain in their respective locations. APPLICANT has represented that currently they do not anticipate a material change in the number of employees in Texas a result of the Merger.

14. After the acquisition of control, APPLICANT may cause AG ANNUITY, AGL-TEXAS, NATIONAL LIFE, and VALIC to enter into intercompany service, investment, or other affiliate agreements. Such agreements are subject to the separate approval of the Commissioner of Insurance.
15. APPLICANT has committed to provide to the Department, within 90 days from the date of this Order, a detailed business plan and budget projections on a quarterly basis for three years for the APPLICANT and each of AG ANNUITY, AGL-TEXAS, NATIONAL LIFE, and VALIC. Such business plan and budget projections shall include projected statutory balance sheets and income statements for the three years, as well as estimated Risk Based Capital (RBC) amounts. Such business plan shall also include a detailed description of assumptions supporting the business plan and budget projections provided. The business plan shall include plans for cross-marketing, cross-training, and licensing of agents on a go forward basis.
16. APPLICANT and AGC have committed to the Department that they will continue corrective action plans relating to market conduct or financial examination issues.
17. APPLICANT and AGC have committed to the Department that they will comply with all statutes and regulations relating to the appointment of agents and licensing thereof.
18. There are various lawsuits pending against AGC or its subsidiaries. APPLICANT and AGC will provide the Department with periodic updates to such pending litigation.
19. APPLICANT and AGC have represented that APPLICANT's and the DOMESTIC INSURERS' privacy policies are in compliance with the Gramm-Leach-Bliley Act and the applicable state statutes and regulations.
20. Amendment No. 1 to the Form A was filed on August 21, 2001, and reflected transactions that were being entered into by AGC and certain of its subsidiaries prior to closing. The following pre-closing dividends are being paid prior to closing of the Merger:
 - (a) VALIC, \$111 million;
 - (b) AGL-TEXAS, \$116 million of which \$111 is a pass-through dividend from VALIC;
 - (c) The Franklin Life Insurance Company (IL), \$7 million;

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- (d) All American Life Insurance Company (IL), \$37 million;
- (e) Merit Life Insurance Company (IN), \$43 million; and,
- (f) AGC Life Insurance company (MO), \$106 million of which the full amount is a pass-through dividend from its subsidiaries.

Of such dividends received by AGC from its subsidiaries, AGC will repay certain commercial paper balances and accrued interest in the aggregate amount of \$203 million.

USLIFE Corporation, a Delaware corporation and wholly owned subsidiary of AGC that serves as an intermediate holding company and does not engage in any activities directly, will be dissolved. By operation of law, All American Life Insurance Company will become a direct, wholly owned subsidiary of AGC. All American Life Insurance Company will then pay the dividend set forth in (d) above and, immediately thereafter, AGC will contribute All American Life Insurance Company to AGC Life Insurance Company. AGC Life Insurance Company would then elect to file a consolidated federal income tax return for the affiliated group of life insurance companies of which it would be the common parent for the portion of calendar year 2001 to maximize the "dividends received deduction".

- 21. APPLICANT has filed with the Department of Justice and the Federal Trade Commission its application to acquire control of AGC and its various insurance subsidiaries. APPLICANT has received early termination on such filings.
- 22. No evidence was presented that immediately upon the change of control AG ANNUITY, AGL-TEXAS, NATIONAL LIFE and VALIC would not be able to satisfy the requirements for the issuance of new certificates of authority or licenses to write the line or lines of insurance for which they are presently licensed.
- 23. No evidence was presented that the effect of such acquisition of control would be to substantially lessen competition in any line or subclassification lines of insurance in this State or tend to create a monopoly therein.
- 24. No evidence was presented that the financial condition of APPLICANT is such as might jeopardize the financial stability of DOMESTIC INSURERS or prejudice the interest of its policyholders.
- 25. No evidence was presented that the APPLICANT has any plans or proposals to liquidate DOMESTIC INSURERS, cause them to

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declare dividends or make other distributions, sell any of their assets, consolidate or merge them with any person, or make any material change in their business or corporate structure or management, or cause them to enter into material agreements, arrangements, or transactions of any kind with any party that are unfair, prejudicial, hazardous or unreasonable to the policyholders of DOMESTIC INSURERS and not in the public interest.

26. No evidence was presented that the competence, trustworthiness, experience and integrity of those persons who would control the operations of DOMESTIC INSURERS are such that it would not be in the interest of the policyholders of DOMESTIC INSURERS and of the public to permit the acquisition of control.
27. No evidence was presented that the acquisition of control would violate any laws of this State, any other state, or the United States.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Commissioner of Insurance makes the following Conclusions of Law:

1. The Commissioner of Insurance has authority and jurisdiction over this application for approval of acquisition of control pursuant to TEX. INS. CODE ANN. art. 21.49-1, § 5.
2. The Commissioner of Insurance has authority to dispose of this matter under TEX. INS. CODE ANN. § 36.104.
3. The APPLICANT and the DOMESTIC INSURERS have knowingly and voluntarily waived all procedural requirements for the entry of this order and judicial review of the order as provided for in TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052 and TEX. INS. CODE ANN. art. 21.49-1, § 5.
4. As found in the foregoing Findings of Fact, the proposed acquisition of control by APPLICANT through the merger of Merger Sub, a wholly owned subsidiary of APPLICANT, with and into AGC, constitutes a change of control of the DOMESTIC INSURERS under the provisions of TEX. INS. CODE ANN. art. 21.49-1, § 5.
5. As found in Facts numbered 22 through 27, there is no evidence that any of the events or conditions listed in TEX. INS. CODE ANN. art. 21.49-1, § 5(c)(1), would occur or exist after the acquisition of control.
6. As found in the foregoing Findings of Fact, there is no evidence upon which the Commissioner could predicate a

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denial of the acquisition of control, under TEX. INS. CODE
ANN. art. 21.49-1, § 5.

7. The application of APPLICANT for acquisition of control of
the DOMESTIC INSURERS should be approved.

IT IS THEREFORE ORDERED that the acquisition of control of
AMERICAN GENERAL ANNUITY INSURANCE COMPANY, Amarillo, Texas,
AMERICAN GENERAL LIFE INSURANCE COMPANY, THE NATIONAL LIFE AND
ACCIDENT INSURANCE COMPANY, and THE VARIABLE ANNUITY LIFE
INSURANCE COMPANY, Houston, Texas, subsidiaries of AMERICAN
GENERAL CORPORATION, a Texas Corporation, by AMERICAN
INTERNATIONAL GROUP, INC., a Delaware corporation, is hereby
approved.

JOSE MONTEMAYOR
COMMISSIONER OF INSURANCE

BY: Betty Patterson
BETTY PATTERSON
SENIOR ASSOCIATE COMMISSIONER
FINANCIAL PROGRAM
COMMISSIONER'S ORDER 01-0665

RECOMMENDED BY:

Eileen J. Shiller
EILEEN J. SHILLER
HOLDING COMPANY SPECIALIST
FINANCIAL ANALYSIS AND EXAMINATIONS

Eric Magee
ERIC MAGEE, STAFF ATTORNEY
FINANCIAL COUNSEL SECTION
LEGAL AND COMPLIANCE