

**BEFORE THE INSURANCE COMMISSIONER OF THE  
STATE OF OKLAHOMA**

**FILED**  
FEB 02 2012  
INSURANCE COMMISSIONER  
OKLAHOMA

IN RE:           Form A: Acquisition of Control           )  
                  AMFIRST INSURANCE COMPANY       ) Case No. 11-1182-TRN  
                  (No Change in Control:                )  
                  Merger of Wholly-Owned            )  
                  Domestic Subsidiary)                )

**ORDER**

The State of Oklahoma, ex rel. John D. Doak, Insurance Commissioner, having reviewed the captioned request for exemption pursuant to 36 O.S. § 1653(F) involving domestic insurer AmFirst Insurance Company ("the Domestic Company"), finds and orders as follows:

**JURISDICTION**

1. John D. Doak is the Insurance Commissioner of the State of Oklahoma and, as such, is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq.

2. More particularly, the Insurance Commissioner has jurisdiction of domestic insurer Form A request for exemptions under 36 O.S. § 1653(F) of the Oklahoma Insurance Holding Company Act, which authorizes the Insurance Commissioner to waive the hearing and approval process of an acquisition where the Insurance Commissioner finds that the transaction should be exempted based on fact that it is not made or entered into for the purpose and does not have the effect of changing or influencing the control of a domestic insurer, or otherwise is not comprehended within the purposes of 36 O.S. § 1653(E).

3. The Domestic Company is an insurer authorized to transact accident, health, property and casualty insurance business in the State of Oklahoma pursuant to Certificate of Authority Number 0132, NAIC CoCode 60250.

## FINDINGS OF FACT

1. By Application received by the Oklahoma Insurance Department on December 13, 2011, the Applicant submitted its request for a Form A exemption under 36 O.S. § 1653(E). The parent of the Domestic Company in the holding company system is AmFirst Holdings, Inc., a Mississippi holding company. The stock of AmFirst Holdings, Inc. is held as follows: David R. White: 45%, John J. Morgan: 45% and Richard L. Eaton: 10%.

2. David White and Richard Eaton wish to transfer their shares of stock in AmFirst Holdings, Inc., to a newly created Mississippi limited liability company, Wheaton Holdings, LLC. The transfer of said shares of stock is not a change of control and the shares of stock owned by David White and Richard Eaton, because after the transfer indicated shares are still entirely controlled by these individuals.

3. The Applicant has submitted documentation indicating this transfer is for a variety of tax as well as non-tax business reasons. Wheaton Holdings, LLC is structured with two types of Members: a Managing Member that owns Units of Membership Interest with Governance Rights and Financial Rights, and Members that own Units of Membership Interest with only Financial Rights. Ownership of the Governance Rights entitles the Managing Member to completely control the business and operations of Wheaton Holdings, LLC, which includes the right to vote all of the stock of the Domestic Company and its parent, which will be owned by the limited liability company, Wheaton Holdings, LLC.

4. According to Applicant's filings, the Members with Financial Rights do not have a voice in the management of Wheaton Holdings, LLC and cannot vote any shares of stock owned by it. The Managing Member of Wheaton Holdings, LLC is Wheaton Management, LLC, a Mississippi limited liability company. The Units of Membership Interest in Wheaton

Management, LLC do not distinguish between Governance Rights and Financial Rights as Wheaton Holdings, LLC does. Instead, all Membership Interest in Wheaton Management, LLC is vested with identical rights under its Operating Agreement, a copy of which was enclosed with the Form A submission. David White and Richard Eaton own all Units of Membership in Wheaton Management, LLC and serve as the Managers of the Company. As Managers, they control the business and operation of Wheaton Management, LLC which includes the exercise of all Governance Rights associated with the holding company system that controls the Domestic Company.

### **CONCLUSIONS OF LAW**

1. The Insurance Commissioner has jurisdiction of insurer Form A request exemptions under 36 O.S. § 1653(F) of the Oklahoma Insurance Holding Company Act which authorizes the Insurance Commissioner to waive the hearing and approval process of an acquisition where the Insurance Commissioner finds that the transaction should be exempted based on the fact that it is not made or entered into for the purpose and does not have the effect of changing or influencing the control of a domestic insurer, or otherwise is not comprehended within the purposes of 36 O. S. § 1653(E).

2. By letter dated December 21, 2011, the Department's Financial Department indicated to Applicant the transaction was approved as a No Change in Control Form A transaction. The purpose of this formal Order is to properly document the record and make plain the Department's position on the concept of Managing Rights and Financial Rights in the context of a Form A transaction. All Findings, Conclusions of Law and Orders in this document shall be retroactively effective to the date of the approval of this transaction by the Department's Financial Division.

3. The Insurance Commissioner further finds and makes a conclusion of law that, based on the information and the documentation presented and filed with the Insurance Commissioner, the transaction as described and outlined by this Application is not made or entered into for the purpose and does not have the effect of changing or influencing control status of a prior control person or of the Domestic Company involved in this No Change of Control Form A.


4. Should the owners with Financial Rights exercise management rights or control in fact of the Domestic Company and its holding company system, this No Change in Control Form A is subject to reconsideration or revocation.

**ORDER**

IT IS THEREFORE ORDERED that, based on the foregoing, the request for and exemption pursuant to 36 O.S. § 1653(E), as described in Applicant's filings and documents presented, IS HEREBY APPROVED without hearing.

WITNESS My Hand and Official Seal this 15<sup>th</sup> day of February, 2012.



  
\_\_\_\_\_  
PAUL WILKENING  
Deputy Commissioner of Administration  
Oklahoma Insurance Department



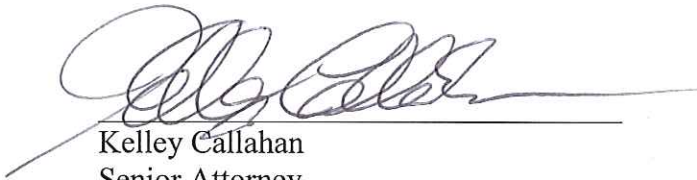
**CERTIFICATE OF MAILING**

I, Kelley C. Callahan, hereby certify that a true and correct copy of the above foregoing Order was mailed postage prepaid with return receipt requested on this 2nd day of February, 2012, to:

J. Angela Ables, Esq.  
Kerr, Irvine, Rhodes & Ables, P.C.  
201 Robert S. Kerr Ave., Suite 600  
Oklahoma City, OK 73102  
Attorney for Applicant

**CERTIFIED MAIL NO:  
7008 1830 0003 9411 8818**

and that a copy was delivered to the Oklahoma Insurance Department Financial and Examination Division.

  
Kelley Callahan  
Senior Attorney  
Oklahoma Insurance Department

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

J. Angela Ables, Esq.  
 Kerr, Irvine, Rhodes & Ables, P.C.  
 201 Robert S. Kerr Ave., Suite 600  
 Oklahoma City, OK 73102

11-1182-TRN KCC(mt)Order

2. Article Number

(Transfer from service label)

7008 1830 0003 9411 8818

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *S. Coleman*

- Agent
- Addressee

B. Received by (Printed Name)

*S. Coleman*

C. Date of Delivery

*02-03-12*

D. Is delivery address different from item 1?  Yes

If YES, enter delivery address below:

No

RECEIVED  
OKLAHOMA INSURANCE DEPARTMENT

FEB 07 2012

Legal Division  
3. Service Type

- Certified Mail
- Registered
- Insured Mail
- Express Mail
- Return Receipt for Merchandise
- C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes



U.S. Postal Service  
**CERTIFIED MAIL<sup>®</sup> RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

7008 1830 0003 9411 8818

**OFFICIAL USE**

|   |    |
|---|----|
| Postage   | \$ |
| Certified Fee                                     |    |
| Return Receipt Fee<br>(Endorsement Required)      |    |
| Restricted Delivery Fee<br>(Endorsement Required) | FC |

Postmark  
Here

Total Postage & Fees

Send To  
Street, Apt. No.,  
or PO Box No.  
City, State, ZIP+4

**J. Angela**  
**Kerr, Irvine, Rhodes & Ables, P.C.**  
201 Robert S. Kerr -  
Oklahoma City, OK 73102  
600  
II-I182-TRN KCC(mt)Order