

**Virginia State Corporation Commission
eFiling CASE Document Cover Sheet**

Case Number (if already assigned)	INS-1994-00218
Case Name (if known)	COMMONWEALTH OF VIRGINIA at the Relation of the STATE CORPORATION COMMISSION, Applicant,
Document Type	OTMR
Document Description Summary	<p>HOW INSURANCE COMPANY, A Deputy Receiver's Report advising that: (i) he has obtained a tax free liquidation, private letter ruling RISK RETENTION GROUP, HOME WARRANTY CORPORATION, and HOME OWNERS WARRANTY CORPORATION, the liquidation of a solvent HOWIC, and transfer of its assets and any remaining liabilities into HWC would qualify as a liquidation for which no gain or loss need be recognized by HOWIC or HWC, and (ii) he has received an actuarial projection that HOWIC has sufficient assets to satisfy its liabilities and to declare a dividend to HWC, sufficient in turn, for HWC to satisfy its liabilities, including the refund of all vested capital contributions as authorized by the Liquidation Order.</p>
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COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND

COMMONWEALTH OF VIRGINIA
at the Relation of the
STATE CORPORATION COMMISSION,

Applicant,

v.

CASE NO. INS-1994-00218

HOW INSURANCE COMPANY, A
RISK RETENTION GROUP,
HOME WARRANTY CORPORATION,
and HOME OWNERS WARRANTY
CORPORATION,

Respondents.

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REPORT OF DEPUTY RECEIVER

TO THE HONORABLE JUDGES OF THE COMMISSION:

Alfred W. Gross, as Deputy Receiver (the "Deputy Receiver") of HOW Insurance Company, a Risk Retention Group ("HOWIC"), Home Owners Warranty Corporation ("HOW"), and Home Warranty Corporation ("HWC") (collectively, the "HOW Companies"), respectfully files this report pursuant to paragraphs (3) and (4) of the Order Approving Plans of Liquidation, entered on June 13, 2005 (the "Liquidation Order"), including the HOWIC Plan of Liquidation incorporated by reference therein.¹

The Deputy Receiver advises the Commission that he has received an actuarial projection concluding that HOWIC has sufficient assets to satisfy its liabilities and to declare a dividend to

¹ The HOWIC Plan of Liquidation, as incorporated by reference in the Liquidation Order, is described in Exhibit A to the Deputy Receiver's November 30, 2004 Application for Orders Setting Hearing on Plans of Liquidation of HOW Insurance Company, a Risk Retention Group, Home Owners Warranty Corporation, and Home Warranty Corporation, Establishing Response Date, Approving Plans of Liquidation, Approving Claims Bar Date, and Related Matters.

HWC, in turn sufficient for HWC to satisfy its liabilities, including the refund of all vested capital contributions as authorized by the Liquidation Order.² See Exhibit A hereto; see also Liquidation Order ¶ (3); HOWIC Plan of Liquidation at 1.

In addition, the Deputy Receiver advises the Commission that he has obtained a “tax free liquidation” private letter ruling from the Internal Revenue Service, establishing that the liquidation of a solvent HOWIC, and transfer of its assets and any remaining liabilities into HWC would qualify as a liquidation for which no gain or loss need be recognized for federal income tax purposes by HOWIC or HWC (“PLR-149808-05”). See Exhibit B hereto; see also Liquidation Order ¶ (3); HOWIC Plan of Liquidation at 1. Specifically, PLR-149808-05 establishes that: (1) No gain or loss will be recognized by HWC upon the receipt of the assets and liabilities of its subsidiary, HOWIC, under section 332 of the Internal Revenue Code; (2) No gain or loss will be recognized by HOWIC on the distribution of its assets to, or the assumption of liabilities by, HWC in complete liquidation under section 337(a) of the Internal Revenue Code; (3) HWC’s basis in each asset received from HOWIC will be the same as the basis of that asset on the books of HOWIC immediately prior to its liquidation under Section 334(b)(1) of the Internal Revenue Code; (4) HWC’s holding period in each asset received from HOWIC, as a result of the liquidation of HOWIC, will include the period during which that asset was held by HOWIC under section 1223(2) of the Internal Revenue Code; and (5) HWC will succeed to, and take into account the items of, HOWIC as described in section 381(c)

² The actuarial opinion, dated May 30, 2008, is based on the opining actuary’s review of the financial statements of HOWIC, HOW, and HWC.


of the Internal Revenue Code, subject to the conditions and limitations specified in sections 381, 382, 383, and 384 of the Internal Revenue Code and regulations thereunder.³

Concurrent with this report, and also pursuant to paragraphs (3) and (4) of the Liquidation Order, the Deputy Receiver is issuing a directive implementing the HOWIC Plan of Liquidation.

³ The information and representations upon which PLR-149808-05 was based have not changed since the Internal Revenue Service issued that opinion on January 25, 2006. The Deputy Receiver does not anticipate any changes in those underlying premises prior to the completion of the transactions upon which PLR-149808-05 opines.

Respectfully submitted,

Alfred W. Gross, Commissioner of Insurance, State Corporation Commission, Bureau of Insurance, as Deputy Receiver of HOW Insurance Company, a Risk Retention Group, Home Owners Warranty Corporation, and Home Warranty Corporation

By: 
Patrick H. Cantilo

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Attorneys for the Deputy Receiver

CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2008, the foregoing document was sent via overnight delivery to:

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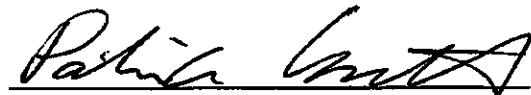
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May 30, 2008

Ms. Susan Roehm
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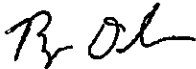
Dear Susan:

Based on my review of the financial statements of HOW Insurance Company, A Risk Retention Group (HOWIC) as of March 31, 2008, I can confirm that HOWIC has sufficient assets to pay off its liabilities as of March 31, 2008.

In addition, based on my review of the financial statements of Home Warranty Corporation (HWC) and Home Owners Warranty Corporation (HOW) as of March 31, 2008, I can confirm that once HOWIC has paid off its liabilities, the remaining assets of HOWIC will be sufficient to provide a dividend to HWC to pay off the liabilities of HWC and HOW as of March 31, 2008, including the refund of all vested capital contributions of the HOW Companies member builders.

Please contact me if you have any questions.

Sincerely,



Barry P. Drobes, FCAS, MAAA
(212) 345-2763

Exhibit "A"

 MARSH MERCER KROLL
GUY CARPENTER OLIVER WYMAN

Internal Revenue Service

Index Number: 332.00-00, 332.01-00,
332.03-00, 332.07-00

Lori J. Brown
Scribner Hall & Thompson LLP
1875 Eye Street, NW
Suite 1050
Washington, DC 20006

Department of the Treasury

Washington, DC 20224

Person to Contact:
Robert M. Rhyne, I.D. #50-30353
Telephone Number:
(202) 622-7550
Refer Reply To:
CC:CORP:B05 - PLR-149808-05
Date:
January 25, 2006

Dear Ms. Brown:

The enclosed copy of a letter is sent to you under the provisions of a power of attorney, authorization and declaration, or other proper authorization currently on file with the Internal Revenue Service.

Sincerely yours,

Virginia S. Voorhees

Virginia S. Voorhees
Senior Technician Reviewer, Branch 5
Office of Associate Chief Counsel
(Corporate)

Enclosure

Exhibit "B"

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Index Number: 332.00-00, 332.01-00,
332.03-00, 332.07-00

Alfred W. Gross, Deputy Receiver
Home Warranty Corporation
1300 East Main
Richmond, VA 23219

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
Robert M. Rhyne, ID No. 50-30353

Telephone Number:
(202) 622-7550

Refer Reply To:
CC:CORP:B05
PLR-149808-05

Date:
January 25, 2006

Legend

StateA = Virginia
StateB = Delaware
StateC = District of Columbia
Subsidiary = HOW Insurance Company or HOWIC
Subsidiary2 = Home Owners Warranty Corporation
Parent = Home Warranty Corporation or HOW
Companies = Parent, Subsidiary and Subsidiary2
Date1 = 1981
Date2 = October 14, 1994
Date3 = 1994
Date4 = November 30, 2004
Date5 = December 31, 2004
Date6 = February 23, 1981
Court1 = Circuit Court of the City of Richmond, Virginia
Receiver = Deputy Receiver
Alfred W. Gross (1994-1996); Steven T. Foster (1996-present)

Commission = State Corporation Commission of the Commonwealth of Virginia

\$Z = \$16,248,598

Y = 50,000

\$X = \$20

\$W = \$6,115,405

\$V = \$1,265,301

Dear Mr. Gross:

This is in reply to a letter dated September 22, 2005, in which rulings are requested as to the federal income tax consequences of a proposed transaction. Additional information was submitted in letters dated November 8, 2005 and November 29, 2005. The facts submitted for consideration are substantially as set forth below.

Subsidiary is a StateA corporation. Subsidiary is an insurance company as defined in Treas. Reg. § 1.801-3(a), but it is not a life insurance company as defined in Section 816. Subsidiary has a calendar year accounting period. Since 1995, Subsidiary has qualified as a non-life insurance company which is exempt from taxation under Section 501(c)(15) of the Internal Revenue Code ("the Code"). Subsidiary received a determination letter from the Internal Revenue Service confirming that it is tax-exempt under Section 501(c)(15) of the Code in 1997. Beginning in 2004, Section 501(c)(15) of the Code applies only to non-life insurance companies with gross receipts which do not exceed \$600,000, where more than 50% of the receipts consist of premiums. However, subject to a transitional rule, the \$350,000 premium income test continues to apply to certain companies in a rehabilitation or liquidation proceeding. P.L. 108-218, § 206(e)(2).

Parent is a StateB corporation with no capital stock. Parent has a calendar year accounting period and is an accrual method taxpayer. Parent is a holding company which owns the stock of Subsidiary and Subsidiary2. Parent and Subsidiary2 file a consolidated income tax return. Subsidiary, as an exempt company, is not eligible to join in that consolidated return. Together, Parent, Subsidiary and Subsidiary2 are referred to as the "Companies."

Prior to Date1, Subsidiary2 had been incorporated in StateC to administer the Companies' insurance program. In Date1, Subsidiary was formed as a risk retention

group insurance company under the Liability Risk Retention Act, 15 U.S.C. Section 3901, et seq. In Date1, Subsidiary2's management incorporated Parent as a non-stock holding company to hold the stock of Subsidiary and Subsidiary2.

\$V of expenses and/or liabilities was paid by Subsidiary on behalf of Parent. Any obligation relating to this expenditure will be cancelled in the liquidation.

On Date2, Court1 issued a final order placing the Companies into receivership and appointing the Commission as Permanent Receiver of the Companies. Pursuant to the order, the Receiver and its representatives took control of the Companies and their assets. Shortly prior to the final order being entered, the Receiver suspended the issuance of new insurance business. No insurance policies issued by Subsidiary were cancelled, but rather the policies remain in force and expire by their own terms.

Since Date3, Subsidiary's financial condition has significantly improved. A substantial portion of all liabilities and assets of the Companies reside at Subsidiary, which is the main operating unit of the Companies. In Date3, Subsidiary was unable to pay all of its estimated obligations as and when due, and, as such, a partial moratorium was placed on the payment of claims. However, Subsidiary is now able to pay 100 percent of claims. Subsidiary continues to process claims and maintains insurance reserves for its unpaid reported and unreported losses. In order to implement a windup of the Companies, Receiver proposed the following transaction to the Commission.

To wind up the Companies, Receiver filed an Application for Orders ("Application") with the Commission on Date4. The Liquidation Order authorizes Receiver to adopt a plan of complete liquidation of Subsidiary (the "Subsidiary Plan of Liquidation"), in his discretion, Subsidiary is now a solvent company, and as of Date5 will report a statutory surplus of \$Z. Under the Subsidiary Plan of Liquidation, all of the remaining assets and liabilities of Subsidiary will be transferred pursuant to the plan of liquidation to Parent within 3 years after the end of the first taxable year in which the first liquidating distribution occurs. The Liquidation Order also approves, with modification, the Application's proposed plan to liquidate the Parent at some point in the future.

In connection with the proposed transaction, the taxpayer represents as follows:

(a) As of the date of this letter and of the adoption of the Subsidiary Plan of Liquidation, Subsidiary has authorized and outstanding Y shares of voting common stock, \$X par value. Such stock is traditional common stock as to the right to vote, receive dividends and receive property on the liquidation of Subsidiary. The right to vote is not and will not be held by someone other than Parent. The common stock confers the right to vote for directors and no restrictions or suspensions on voting have been or will be imposed.

(b) Parent has owned 100 percent of the outstanding stock of Subsidiary since its incorporation on Date6, which shares were acquired for cash in the amount of \$W.

(c) There is no plan or intent to sell, dispose of or issue any Subsidiary stock prior to the liquidation.

(d) Parent, on the date of adoption of the Subsidiary Plan of Liquidation and at all times until the final liquidating distribution is completed, will be the owner of at least 80 percent of the single outstanding class of Subsidiary stock.

(e) No shares of Subsidiary stock will have been redeemed during the three years preceding the adoption of the Subsidiary Plan of Liquidation.

(f) The Subsidiary Plan of Liquidation has not yet been adopted. The Liquidation Order authorizes the Deputy Receiver to adopt a directive implementing the Subsidiary Plan of Liquidation and liquidate Subsidiary if and when he files a written report with the Commission advising that he has received an actuarial projection that Subsidiary has sufficient assets to satisfy its liabilities and to declare a dividend to Parent sufficient for Parent to satisfy its liabilities.

(g) Subsidiary will adopt the Subsidiary Plan of Liquidation specifying that the final liquidating distribution is to be completed within 3 years from the close of the taxable year of Subsidiary in which the first liquidating distribution is made.

(h) As soon as the first liquidating distribution has been made, Subsidiary will cease to be a going concern and its activities will be limited to the winding up of its affairs, paying its debts and distributing its remaining assets to its shareholder.

(i) Subsidiary will be dissolved and all of its stock will be cancelled.

(j) Subsidiary will retain no assets, following the final liquidating distribution.

(k) Subsidiary will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the date of adoption of the Subsidiary Plan of Liquidation.

(l) No assets of Subsidiary have been or will be disposed of by either Subsidiary or Parent except for dispositions in the ordinary course of business and dispositions occurring more than three years prior to adoption of the Subsidiary Plan of Liquidation.

(m) No assets of Subsidiary have been or will be acquired by a corporation, other than Parent, except for sales in the normal course of business, in the liquidation or during the three years prior to adoption of the Subsidiary Plan of Liquidation.

(n) The liquidation of Subsidiary will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation ("Recipient") of any of the businesses or

assets of Subsidiary, if persons holding, directly or indirectly, more than 20 percent in value of the Subsidiary stock also hold, directly or indirectly, more than 20 percent in value of the stock in Recipient. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of Section 318(a) of the Code, as modified by Section 304(c)(3) of the Code.

(o) Prior to adoption of the Subsidiary Plan of Liquidation, no assets of Subsidiary will have been distributed in kind, transferred or sold to Parent except for (i) transactions occurring in the normal course of business or (ii) transactions occurring more than three years prior to adoption of the Subsidiary Plan of Liquidation.

(p) Subsidiary will report all earned income, if any, represented by assets that will be distributed to Parent, such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.

(q) The fair market value of Subsidiary's assets will exceed its liabilities both at the date of adoption of the Subsidiary Plan of Liquidation and immediately prior to the time the first liquidating distribution is made.

(r) Parent is not an organization that is exempt from federal income tax under Section 501 of the Code or any other provision of the Code.

Based solely on the information submitted and on the representations set forth above, we rule as follows:

(1) No gain or loss will be recognized by Parent upon the receipt of the assets and liabilities of Subsidiary. Section 332 of the Code. However, no opinion is expressed on the tax treatment of Parent or Subsidiary with respect to the \$V amount paid by Subsidiary on behalf of Parent.

(2) No gain or loss will be recognized by Subsidiary on the distribution of its assets to, or the assumption of liabilities by, Parent in complete liquidation. Section 337(a) of the Code.

(3) Parent's basis in each asset received from Subsidiary will be the same as the basis of that asset in the hands of Subsidiary immediately prior to its liquidation. Section 334(b)(1) of the Code.

(4) Parent's holding period in each asset received from Subsidiary as a result of the liquidation will include the period during which that asset was held by Subsidiary. Section 1223(2) of the Code.

(5) Parent will succeed to and take into account the items of Subsidiary described in Section 381(c), subject to the conditions and limitations specified in Sections 381, 382,

383 and 384 of the Code and the regulations thereunder. 381(a) of the Code and Section 1.381(a)-1 of the Income Tax Regulations.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,



Virginia Voorhees
Senior Technician Reviewer, Branch 5
Office of Associate Chief Counsel
(Corporate))