

NOV 30 2021

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

IN THE MATTER OF THE	)	FINDINGS OF FACT, CONCLUSIONS
ACQUISITION OF	)	OF LAW AND ORDER
ACCEPTANCE INSURANCE	)	
COMPANY BY DARAG NORTH	)	CAUSE NO. C-2723
AMERICA HOLDING COMPANY	)	
	)	

On or about January 13, 2021, DARAG North America Holding Company (“Applicant”) filed an application (“Form A”) with the Nebraska Department of Insurance (“Department”) seeking approval to acquire control of Acceptance Insurance Company (“AIC”), a Nebraska domestic insurer. The Form A was filed pursuant to the Insurance Holding Company System Act, Neb. Rev. Stat. §§ 44-2120 to 44-2153 (“Act”). A Notice of Public Hearing was issued by the Department on October 20, 2021.

On November 19, 2021, a public hearing was held at the Department. Director of the Department, Eric Dunning, presided over the hearing. Jane Malone, a registered professional reporter was present and transcribed the hearing. Thomas Green, an attorney, and Lindsay Crawford, Deputy Chief Financial Examiner, represented the Department. Applicant was represented by Robert Nefsky of Rembolt Ludtke LLP, who was present at the hearing.

Applicant presented testimony in favor of the acquisition through Daniel Peter Linden, the Chief Executive Officer of the Applicant, who appeared via Webex. Applicant offered additional evidence through Exhibits 1-7, which were received into the record without objection. Exhibits 2 and 3 established that the Applicant provided timely notice of the hearing to the Domestic Insurer.

The Department offered Exhibit 7, which was received into the record without objection.

No testimony or documentary evidence was offered in opposition to the proposed acquisition.

On the basis of the filings, correspondence and information provided to the Department, the Director approves the application and finds, concludes, and recommends as follows:

FINDINGS OF FACT

1. On January 13, 2021, the Department received a verified Form A from Applicant for approval to acquire control of the Domestic Insurer through a Stock Purchase Agreement (“Agreement”). The Form A was filed pursuant to the Act, specifically § 44-2126. The Agreement will result in Applicant gaining control of the Domestic Insurer as control is defined in the Act.

2. AIC is a domestic insurer organized under and governed by the laws of the State of Nebraska. AIC obtained its Certificate of Authority to transact the business of property and casualty insurance in this state on October 26, 1979. AIC is a property and casualty insurance company that is currently in rehabilitation. AIC is a subsidiary of Acceptance Insurance Companies, Inc. (“Parent Company”), a Delaware corporation that is currently subject to an existing Chapter 7 bankruptcy case, Case No. BK 05-80059 (“Bankruptcy Case”), in the United States Bankruptcy Court of the District of Nebraska. Richard D. Myers is the Chapter 7 trustee in the Bankruptcy Case.

3. Applicant is a Delaware holding company. It is part of the DARAG Group, an international insurance specialist.

4. Following the transaction, the Domestic Insurer will be wholly owned by the Applicant, and therefore, Applicant will be the ultimate controlling party of the Domestic Insurer.

5. Applicant and the Chapter 7 trustee in the Bankruptcy Case of the Parent Company of the Applicant entered into the November 11, 2020. The Agreement provides that the closing on the transaction is contingent, among other things, on regulatory approval of the Form A.

6. The Agreement provides for Applicant to acquire all of the issued and outstanding capital stock of the Domestic Insurer, purchase of an outstanding surplus note issued by the Domestic Insurer in the original principal amount of \$20,000,000 and for cash consideration of \$4,000,000, subject to adjustment by the bankruptcy court.

7. Applicant has no plans or proposals to cause the Domestic Insurer to pay any extraordinary dividends or make other distributions, to liquidate the Domestic Insurer, or sell the Domestic Insurer's assets. Applicant intends to merge the Domestic Insurer with and into another subsidiary of Applicant, Vesta Insurance Corporation ("Vesta"), a Texas domiciled insurer, immediately following the Applicant's acquisition of the Domestic Insurer. As the surviving entity, Vesta will remain a Texas domiciled insurer and the Domestic Insurer will cease to exist as a separate insurance company. Applicant intends to retain certain management and employees of the Domestic Insurer during a transition period beginning with the effective date of the acquisition of the Domestic Insurer and its merger with and into Vesta.

8. Applicant has filed all the documents and information required by law and requested by the Department.

CONCLUSIONS OF LAW

1. The Department and Director have jurisdiction over the subject matter of this proceeding.

2. On the basis of the materials filed, correspondence received and evidence presented at the hearing, the Director concludes as follows:

- a. After the acquisition, the Domestic Insurer will satisfy the requirements for a Certificate of Authority to conduct business of insurance in the State of Nebraska and write the lines of insurance for which the Domestic Insurer is presently licensed.
- b. The effect of the acquisition will not substantially lessen the competition in insurance in the State of Nebraska nor tend to create a monopoly therein nor violate the laws of the State of Nebraska.
- c. The financial condition of Applicant is such that it would not jeopardize the financial stability of the Domestic Insurer. At the present time, the Domestic Insurer does not have any policyholders.
- d. Applicant has no plans or proposals to liquidate the Domestic Insurer, to declare any extraordinary dividends, or to sell or pledge its stock or any of its assets. The Applicant's proposed merger of the Domestic Insurer after the acquisition is neither unfair nor unreasonable to the policyholders of the Domestic Insurer, nor is it not in the public interest.
- e. The competence, experience and integrity of those persons who would control the operation of the Domestic Insurer are such that it would be

in the interest of the public and any policyholders, in the event that the Domestic Insurer were to issue any policies in the future, to allow the acquisition.

- f. Applicant is not subject to the provisions of Neb. Rev. Stat. § 44-6115 under the Demutualization Act.
- g. The acquisition of control is not likely to be hazardous or prejudicial to the public.

ORDER

IT IS THEREFORE ORDERED that the Form A Application be approved subject to the following condition:

Within fifteen (15) days after the end of the month in which the transaction closes, Applicant shall cause to be filed with the Department an Insurance Holding Company System Registration Statement, and any other filings required, in accordance with Neb. Rev. Stat. § 44-2132, et seq.

Dated this 30th day of November, 2021.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


ERIC DUNNING
Director of Insurance

Prepared by:
Thomas Green II, #21001
Legal Counsel
Nebraska Department of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Order was sent to Robert Nefsky, Rembolt Ludtke LLP, 3 Landmark Centre, 1128 Lincoln Mall, Ste 600, Lincoln, NE 68508, and to Helen Weinstein, DARAG North America, 6 Concourse Pkwy, Suite 1460, Shady Springs, GA 30328, by U.S. Mail, postage prepaid, on this 30th day of November, 2021.

Shelly Stone