

DEC 12 2012

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	ORDER OF SUPERVISION AND
)	LIST OF REQUIREMENTS TO
PETITIONER,)	ABATE SUPERVISION
)	
VS.)	
)	
ABILITY INSURANCE COMPANY,)	CAUSE NO.: C-1992
)	
RESPONDENT.)	
)	

The duly appointed and qualified Director of Insurance for the State of Nebraska, Bruce R. Ramage (“Director”), acting under the authority of Neb. Rev. Stat. §§ 44-4801 through 44-4862 (Reissue 2010), and, being fully advised in the premises, hereby finds, orders and concludes as follows:

FINDINGS OF FACT

1. Ability Insurance Company (“AIC”) is a Nebraska domestic life and health insurance company with its home office located at 222 South 15th Street, Suite 1202 South, Omaha, NE 68102.

2. Neb. Rev. Stat. § 44-4809(2) of the Insurers Supervision, Rehabilitation, Liquidation Act provides that the Director may issue an order of supervision in the event an insurer is in a condition which renders the continuance of its business hazardous to the public or to its insureds.

3. Based upon examination of financial statements filed by AIC, including those filed with the Department dated September 30, 2011 and September 30, 2012, the Director has reasonable cause to believe that AIC is in such a condition as to render the continuance of its

business hazardous to its policyholders and the general public as defined in the Nebraska Insurance Regulations, specifically, 210 Neb. Admin. Code 55 §§ 004.05 and 004.06.

4. Pursuant to 210 Neb. Admin. Code 55 § 004.05, a hazardous condition may be deemed to exist when an insurer's operating loss in the last twelve-month period is greater than fifty percent (50%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required.

5. AIC's policyholder surplus as of September 30, 2011 was \$49,461,289. AIC's policyholder surplus as of September 30, 2012 was \$28,132,561, which indicates an operating loss over this twelve month period of \$21,328,728. AIC's remaining surplus as regards policyholders in excess of the minimum required is \$27,132,561. AIC's operating loss in the last twelve-month period is seventy-nine percent (79%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required. This exceeds the limits established in 210 Neb. Admin. Code 55 § 004.05 and constitutes a hazardous financial condition.

6. Pursuant to 210 Neb. Admin. Code 55 § 004.06, a hazardous condition may be deemed to exist when an insurer's operating loss in the last twelve-month period, excluding net capital gains, is greater than twenty percent (20%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required.

7. AIC's operating loss in the last twelve-month period, excluding net capital gains, is \$20,922,261. AIC's remaining surplus as regards policyholders in excess of the minimum required is \$27,132,561. AIC's operating loss in the last twelve-month period, excluding net capital gains, is seventy-seven percent (77%) of its remaining surplus as regards policyholders in excess of the minimum required. This exceeds the limits established in 210 Neb. Admin. Code 55 § 004.06 and constitutes a hazardous financial condition.

CONCLUSIONS OF LAW

1. The State of Nebraska Department of Insurance has jurisdiction over the subject matter and over AIC.
2. Grounds exist for placing AIC under supervision pursuant to Neb. Rev. Stat. § 44-4809(2)(a)(i) (Reissue 2010).

ORDER OF SUPERVISION

NOW, THEREFORE, it is hereby ordered by the Director that:

1. AIC is immediately placed under an Order of Supervision pursuant to Neb. Rev. Stat. § 44-4809(2)(a)(i) (Reissue 2010).
2. James G. Nixon, Chief Examiner of the Nebraska Department of Insurance, is appointed Supervisor. The Supervisor may appoint one or more Deputy Supervisors in overseeing the operations of AIC.
3. AIC shall pay all costs incurred by the Supervisor and any Deputy Supervisors in overseeing the operations of AIC.
4. During the period of supervision, AIC shall not, without prior written approval of the Director or Supervisor:
 - a) Write any new business, enter into any new reinsurance contracts, treaties, or agreements or make amendments to any existing reinsurance contracts, treaties, or agreements, or enter into any commutations, terminations, novations, or similar transactions;
 - b) Make any payments, dividends, or other distributions to or engage in any transactions with any affiliate of AIC. Transactions under existing affiliated agreements do not need approval; however, any modification to such agreement or execution of new affiliated agreements requires prior approval by the Director or Supervisor;
 - c) Accept any non-cash capital contributions from any affiliate;
 - d) Make any withdrawal of monies from its bank accounts nor make any disbursement, payment or transfer of assets in an amount or by a series of related transactions exceeding \$100,000;

- e) Make any new investment of its funds, unless such investment is in a fixed income security that has a National Association of Insurance Commissioners Securities Valuation Office designation of 1 or 2;
- f) Sell any investment prior to maturity;
- g) Incur any debt, obligation or liability for borrowed money;
- h) Loan monies to any person or entity (whether or not affiliated);
- i) Pledge or assign any of its assets;
- j) Grant any salary increase or pay any bonus, commission, stock, stock option, directors' fees, or other non-salary compensation to any officer, director, or employee of AIC, or make any changes to the terms of any written group remuneration, consulting, deferred compensation or bonus plan covering officers, employees, or directors of AIC;
- k) Make any additions to AIC's board of directors or appoint any individual as a chief executive officer, chief operations officer, chief financial officer, chief actuarial officer, general counsel or chief claims officer (or equivalent positions) ("Key Officers") of AIC. AIC shall notify the Department of the resignation or termination of any Key Officer within five days of such resignation or termination;
- l) Establish statutory security deposits, in addition to deposits existing on the date hereof, with any insurance regulatory authority;
- m) Waive, or take any action, or fail to take any action, that may be deemed to constitute a waiver of any rights to satisfaction of obligations owed to AIC by any affiliate of AIC; or
- n) Move, transfer, or change the current funds withheld arrangement and assets supporting it.

5. During the period of supervision, AIC shall engage an independent actuary, subject to prior approval of the Department, to conduct actuarial assessment of the reserves as of December 31, 2012, and, as the Department deems necessary, in its sole discretion, each year thereafter. Such report of actuary and all underlying workpapers shall be filed by AIC with the Department by March 1.

6. During the period of supervision, AIC shall make the following reports to the Department:

- a) A monthly summary statutory financial information report on the results of operations and the financial position of AIC, which shall be filed no later than the

15th day of the month following the month subject to the report, in a form approved by the Department;

- b) Monthly confirmations of all transactional activity of AIC funds withheld and custody agreements must be submitted directly by the bank to the Department no later than the 15th day of the month following the month end;
- c) Any final reports or evaluations, including supporting workpapers, prepared by AIC or its consultants regarding the operations of AIC, including but not limited to its existing or projected financial condition;
- d) Within thirty (30) days of the date of this Agreement, AIC shall file, in a form acceptable to the Director, financial projections for a two-year period. The projections shall include the year-end Risk Based Capital ratio, balance sheet, income statement and statement of cash flow, all on a statutory basis. The financial statement projections shall be revised annually and filed with the Department not later than March 31 of each successive year;
- e) A report in which the actual results during the prior year are compared to the financial projections for that year as submitted to the Department in Paragraph 2(e), and material variances are explained. Such report shall be filed with the Department not later than March 31 of each year;
- f) A monthly written report summarizing all communication and filings made with other regulatory agencies;
- g) All notices of regulatory action or litigation filed against AIC or its affiliates;
- h) Any additional reports that the Department reasonably determines are necessary to ascertain the financial condition of AIC, to be submitted within five (5) business days of request by the Department, or such time period as the Department and AIC may agree; and

7. Nothing in this order shall preclude the Director from taking further immediate action as deemed in the best interest of AIC's policyholders and the public including commencement of further legal proceedings if and as necessary.

8. Nothing in this order shall preclude AIC from requesting a hearing on this Order pursuant to Neb. Rev. Stat. § 44-4809(6)(a) (Reissue 2010). However, the request for a hearing shall not stay the effect of this order as expressly provided by law.

LIST OF REQUIREMENTS TO ABATE SUPERVISION AND NOTICE OF HEARING

The Director hereby notifies AIC that it shall convene and conduct a hearing in no less than sixty days to determine whether AIC has complied with the following conditions as set forth in this Order. Those conditions are as follows:

1. AIC has undergone an independent actuarial review, by an actuary engaged by the Nebraska Department of Insurance, of its new GPV system (Alpha) with updated assumptions and claim reserves based on new Milliman claims cost tables;
2. All reserves of AIC have been adjusted to recommended levels;
3. AIC is no longer in a condition which renders the continuance of its business hazardous to the public or to its insureds; and
4. AIC's Risk Based Capital calculation is at or above the 350% of Authorized Control Level.

Should the Director find after hearing that AIC has failed to comply with any of the requirement set out above or has committed acts or is in the status or condition prohibited by Chapter 44 of the Nebraska Revised Statutes, he may enter an Order applying the remedies and sanctions authorized by that Chapter or take such other action as he deems appropriate which is authorized by law.

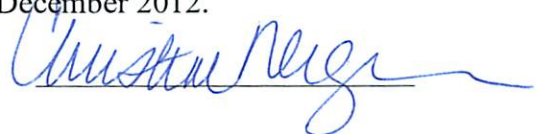
Dated and effective this 12th day of December 2012.



Bruce Ronge
Director of Insurance
Nebraska Department of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order of Supervision and List of Requirements to Abate Supervision and Notice of Hearing was served upon Frederick John Yosua, Jr., President, COB, COO, Ability Insurance Company, by hand delivery at the offices of the Nebraska Department of Insurance on this 12th day of December 2012.



APR 01 2013

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	DISMISSAL OF SUPERVISOR
)	AND APPOINTMENT OF
PETITIONER,)	NEW SUPERVISOR
)	
VS.)	
)	
ABILITY INSURANCE COMPANY,)	CAUSE NO.: C-1992
)	
RESPONDENT.)	
)	

The duly appointed and qualified Director of Insurance for the State of Nebraska, Bruce R. Ramge, ("Director"), acting under the authority of *Neb. Rev. Stat.* §44-4801 and §44-4809 et seq., (Reissue 2010), and being fully advised in the premises, hereby dismisses James G. Nixon, Chief Examiner of the Nebraska Department of Insurance, as the appointed Supervisor of Ability Insurance Company effective with Mr. Nixon's retirement from employment on April 5, 2013.

All matters arising under the supervision of Ability Insurance Company shall be referred to Mr. Nixon's successor, Justin C. Schrader, who will act as Supervisor of Ability Insurance Company pursuant to the requirements of the Order of Supervision entered on December 12, 2012

Dated this 1 day of April, 2013.



Bruce R. Ramge
Director

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon Kenneth King, President, Ability Insurance Company, c/o Advantage Capital Holdings, LLC, 48 Wheeler Ave., Pleasantville, NY 10570, by U.S. Mail, postage prepaid, and to kking@ua-capital.com, by electronic mail, on this 1 day of April, 2013.

A handwritten signature in blue ink, reading "Tracy A. Luhn", is written over a horizontal line.