

MAR 04 2011

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

IN THE MATTER OF THE)	FINDINGS OF FACT,
ACQUISITION OF CONTROL OF)	CONCLUSIONS OF LAW,
BATTLE CREEK MUTUAL)	AND ORDER
INSURANCE COMPANY)	
)	CAUSE NO.: C-1879

On January 28, 2011, Nodak Mutual Insurance Company (“Applicant”) filed an application (“Form A”) seeking approval to acquire control of Battle Creek Mutual Insurance Company (“Battle Creek Mutual”), a Nebraska domestic insurer. The application was filed pursuant to the Insurance Holding Company System Act, NEB. REV. STAT. §§ 44-2120 and 44-2126 (Reissue 2004). The filing was subsequently supplemented on February 18, 2011. A Notice of Public Hearing was filed on February 4, 2011.

On March 4, 2011, a public hearing was held at the Nebraska Department of Insurance (“Department”). Bruce R. Range, Director of Insurance, presided over the hearing. Tracy Gruhn, a licensed notary public, was present and recorded the hearing. Christine Neighbors, Deputy Director and General Counsel, and James Nixon, Chief Examiner, represented the Department. Applicant was represented in person by Kent Forney, Esq. Applicant presented testimony in favor of the acquisition through Michael J. (“Jim”) Alexander, Executive Vice President & Chief Executive Officer, of Applicant. In attendance at the hearing were Brian Doom, Vice President and Secretary/Treasurer and Chief Financial Officer of Applicant, Bruce Zimmerman and Vickie Ashker of Battle Creek Mutual, and William R. Kutilek, Esq. Exhibits were offered by Applicant and by the

Department, and received into the record. Applicant and Battle Creek Mutual waived notice of hearing as required by NEB. REV. STAT. § 44-2127(2). 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 finds and concludes as follows:

FINDINGS OF FACT

1. On January 28, 2011, the Department received a verified Form A from the Applicant for approval to acquire control of Battle Creek Mutual through the execution of an Affiliation Agreement with Battle Creek Mutual. Under the terms of the Affiliation Agreement, Applicant has purchased a Surplus Note issued by Battle Creek Mutual, will execute a 100% Quota Share Reinsurance Agreement, and will adopt of new Articles of Incorporation and restated By-Laws. The Form A application and all subsequent amendments were filed pursuant to the Insurance Holding Company System Act, NEB. REV. STAT. § 44-2120, ET SEQ., specifically § 44-2126. The acquisition will result in Applicant exercising control of Battle Creek Mutual as control is defined in the Act.

2. Battle Creek Mutual is a domestic assessment insurer organized under and governed by the laws of the State of Nebraska. Battle Creek Mutual obtained its Certificate of Authority to transact the business of insurance in this State on January 1, 1897.

3. Applicant is structured as a mutual insurer organized and licensed under the laws of the State of North Dakota as a property and casualty insurer. Applicant's sole subsidiary, American West Insurance Company, is wholly-owned by Applicant and

organized under the laws of the State of North Dakota as a property and casualty insurer. Applicant, with its insurance subsidiary, markets insurance products in the property and casualty lines market. As a result of the acquisition of Battle Creek Mutual, Applicant will become the ultimate controlling person of Battle Creek Mutual.

4. As a result of the acquisition and as consideration for the acquisition of Battle Creek Mutual, Applicant purchased a Surplus Note for Three Million Dollars (\$3,000,000) issued by Battle Creek Mutual and will execute a 100% Quota Share reinsurance whereby Battle Creek Mutual cedes 100% of its net premium income and associated losses and expenses to Applicant, pursuant to the terms of the Affiliation Agreement. The funds for the acquisition of Battle Creek Mutual are from the internally generated funds of Applicant.

5. Battle Creek Mutual's policyholders voted to approve the Affiliation Agreement and amendments to the Articles of Incorporation and By-laws on February 25, 2011.

6. The parties executed the Affiliation Agreement dated December 30, 2010, with its effective date being the later of April 1, 2011, or the date of approval of the Form A by the Department.

7. Applicant has no plans to have Battle Creek Mutual declare an extraordinary dividend, to liquidate Battle Creek Mutual, to sell or merge it with any person or persons, or to make any other material change in Battle Creek Mutual's business operations, but that it may seek authority to write additional lines of business. Applicant anticipates the adoption of new Articles of Incorporation and By-Laws for Battle Creek Mutual which will have the

effect of converting Battle Creek Mutual to a non-assessable insurer. Applicant further anticipates that upon the effective date of and pursuant to the terms of the Affiliation Agreement, Applicant will be entitled to elect two-thirds of the Board of Directors of Battle Creek Mutual so long as the Surplus Note or Reinsurance Agreement remains in effect. Information about the proposed directors was submitted with the filing.

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, Battle Creek Mutual will satisfy the requirements for issuance of a Certificate of Authority to conduct the business of insurance in the State of Nebraska and write the lines of insurance for which it 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 Battle Creek Mutual or prejudice the interests of the policyholders of Battle Creek Mutual.

d. The Applicant has no plans or proposals to liquidate Battle Creek Mutual, to sell the assets of Battle Creek Mutual without the approval of the Department, to consolidate or merge Battle Creek Mutual with any person or persons without approval of the Department, or to make any other material change in the business operations or corporate structures of management, other than that which was represented in the Form A filing, which would be unfair and unreasonable to policyholders of Battle Creek Mutual and not in the public interest.

e. The competence, experience and integrity of those persons who would control the operation of Battle Creek Mutual are such that it would be in the interests of the policyholders of Battle Creek Mutual and the public to allow the acquisition.

f. Applicant is not subject to the provisions of NEB. REV. STAT. § 44-6115 under the Demutualization Act; and

g. The acquisition is not likely to be hazardous or prejudicial to the public.

ORDER

IT IS THEREFORE ORDERED that Applicant is approved to acquire control of Battle Creek Mutual, pursuant to the terms of the Affiliation Agreement.

Within fifteen (15) days after the close of the transaction, Applicant shall file 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 4th day of March, 2011.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



BRUCE R. RAMGE
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Order was sent to Kent Forney, Esq., Bradshaw, Fowler, et. al., 801 Grand Avenue, Suite 3700, Des Moines, IA 50309-8004 and William R. Kutilek, Crosby Guenzel LLP, 134 South 13th Street, Suite 400, Lincoln, NE 68508 by electronic mail and by regular U.S. Mail, on this 4th day of March, 2011.



Tracy A. Stuber