

JAN 31 2013

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

IN THE MATTER OF THE)	ORDER APPROVING ACQUISITION
ACQUISITION OF CONTROL OF)	
ABILITY INSURANCE COMPANY)	
)	CAUSE NO.: C-1984

On January 23, 2013, Advantage Capital Holdings, LLC (“Applicant”), filed an application (“Form A”) seeking approval to acquire control of Ability Insurance Company (“Ability”), a Nebraska domestic insurer. The application was filed pursuant to the Insurance Holding Company System Act, *Neb. Rev. Stat.* §§ 44-2120 to 44-2153 (Cum. Supp. 2012). The filing was subsequently supplemented on January 28, 2013. A Notice of Public Hearing was issued on January 25, 2013.

On January 30, 2013, a public hearing was held at the Nebraska Department of Insurance (“Department”). Director of the Nebraska Department of Insurance, Bruce R. Range presided over the hearing. Tracy Gruhn, a licensed Notary Public, was present and recorded the hearing. Christine Neighbors, Deputy Director and General Counsel, James Nixon, Chief Examiner, and Anna Maria Elliott, Reinsurance Specialist and Examination Supervisor, represented the Department.

Applicant was present and represented by Lawrence F. Harr, Lamson, Dugan and Murray LLP. Applicant presented testimony in favor of the acquisition through Kenneth King (“King”), President of Applicant. Exhibits were offered by Applicant and by the Department, and received into the record. Applicant and Ability waived notice of hearing. Other attendees at the hearing were Yvette Ostolaza of Weil Gotshal & Manges LLP, Christopher Williams of Oak Hill Capital Partners, and Justin Schrader, Assistant

Chief Examiner for the Department. 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 23, 2013, the Department received a verified Form A from the Applicant for approval to acquire control of Ability through a Stock Purchase Agreement (“SPA”). The application and subsequent amendments were filed pursuant to the Insurance Holding Company System Act, *Neb. Rev. Stat.* §§ 44-2120 to 44-2153, specifically §44-2126. The transaction will result in Applicant gaining control of Ability as control is defined in the Act.

2. Ability is a domestic insurer organized under and governed by the laws of the State of Nebraska. Ability obtained its Certificate of Authority to transact the business of life and health insurance in this state on October 6, 1967. Ability is currently a wholly-owned subsidiary of Ability Resources Holdings, Inc., a Delaware corporation, (“Seller”) and an indirect subsidiary of Ability Reinsurance Holdings, Ltd., a Bermuda corporation. Ability is currently subject to an Order of Supervision issued by the Director of Insurance in Cause No.: C-1992 on December 12, 2012.

3. Applicant is a Delaware corporation formed on July 31, 2012 to serve as an insurance holding company for Ability following acquisition. Applicant is comprised of a management team that is responsible for the operations and activities of Advantage

Life Reinsurance Company, SPC, (“Advantage”). Applicant is owned 90.2% by Advantage Capital Partners LLC, and 9.8% by Advantage. Advantage Capital Partners LLC is 100% owned by King. Therefore, King will be the Ultimate Controlling Person of Ability. King, as the proposed President of Ability upon acquisition, will be responsible for managing the operational and regulatory activities, originating new business and developing investment strategy for Ability. King has over 25 years of experience in the capital and reinsurance markets, where his experience includes operating aspects of reinsurance including underwriting specialized insurance lines, financial management, investments, regulatory and rating compliance, risk management and new business development. King became managing principal of UA Capital LLC, in 2008. UA Capital LLC focuses on developing new investment and insurance products and raising capital for insurers.

In addition to King, Ian Kirkpatrick, with 40 years’ experience in the insurance industry in the areas of risk management services, alternative risk transfer, life insurance and annuities, and founder of Crusader International Group, will serve as a proposed company director, and Shane Osborn, a Nebraska resident and licensed insurance producer, will serve as a board director, Treasurer of Ability, and chair of Ability’s board investment committee.

4. While the SPA final version was submitted with the Form A, the parties executed the SPA on January 29, 2013. In consideration for the proposed acquisition, the Applicant and Seller have agreed that consideration for the purchase of the shares issued and outstanding consists of the execution of the mutual covenants, conditions,

representations and warranties of the Applicant, Seller and Insurer set forth in the SPA, including enter into the Commutation Agreement, Guaranteed Morbidity Reinsurance Agreement, Administrative Services Termination Agreement, and the new Administrative Services Agreement.

5. As a condition of acquisition, Ability will sell the LifeCare Convertible Note it holds as a result of a loan made in 2011. The note is not rated by the Securities Valuation Office of the NAIC and is held by Ability as a non-admitted asset. As part of the acquisition, Seller will pay Ability \$3.75M for the note.

6. Applicant has no current plans to (1) declare an extraordinary dividend; (2) to liquidate Ability; (3) to sell or merge it with any person or persons; or (4) to make any other material change in Ability's current active business operations.

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

8. Closing of the acquisition will occur as soon as possible.

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, Ability 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 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 Ability or prejudice the interest of the policyholders of Ability.

d. The Applicant has no plans or proposals to liquidate Ability, to sell the assets of Ability without the approval of the Department, to consolidate or merge Ability 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 which would be unfair and unreasonable to policyholders of Ability and not in the public interest.

e. The competence, experience and integrity of those persons who would control the operation of Ability are such that it would be in the interest of the policyholders of Ability 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 Ability.

Within fifteen (15) days after closing, 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 31 day of January, 2013.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



BRUCE RAMGE
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Order was sent to Kenneth King, UA Capital LLC c/o Advantage Capital Holdings, LLC, 48 Wheeler Ave., Pleasantville, NY 10570 and to Lawrence F. Harr, Lamson, Dugan and Murray, LLP, 10306 Regency Parkway Drive, Omaha, NE 68114 by electronic mail and by U.S. Mail, postage prepaid, on this 31 day of January, 2013.


