

BEFORE THE INSURANCE COMMISSIONER  
FOR THE STATE OF ARKANSAS

IN THE MATTER OF THE APPLICATION FOR  
APPROVAL OF ACQUISITION OF CONTROL  
OF NATIONAL INSURANCE UNDERWRITERS  
BY DIRECT GENERAL CORPORATION

AID NO. 2005- 041

**ORDER**

On Monday, July 11, 2005, at 1:00 p.m., in the Hearing Room of the Arkansas Insurance Department (the "Department"), in accordance with the provisions of Ark. Code Ann. §§ 23-61-109, 23-61-303, 23-63-510 and other pertinent provisions of the Arkansas Insurance Code, a Public Hearing was held pursuant to a Form A Application filed by Direct General Corporation ("Direct General") seeking approval of the acquisition of control of National Insurance Underwriters ("NIU") as detailed in the Form A Application dated May 2, 2005, and received by the Department on the same day, the exhibits thereto, and the supplemental filings in relation thereto (hereinafter, collectively, "Form A"). Also, Direct General requests approval under Ark. Code Ann. § 23-69-134(c)(1) to maintain the books and records of NIU post-acquisition in Nashville, Tennessee - the location of the books and records of Direct General and its insurer affiliates; however, the statutory home office of NIU will continue to be located at 425 West Capitol Avenue, Suite 1800, Little Rock, Arkansas 72201-3525.

The Hearing Officer was the Honorable Julie Benafield Bowman, Commissioner of the Arkansas Insurance Department. The Department was represented by Ms. Ragenea Thompson Hodge, Associate Counsel, and Mr. Mel Anderson, Deputy Commissioner for Financial Regulation and Audit. Representing HCC Holdings, Inc. and NIU was Ms. Melanie Butler, Attorney for HCC Service Company, a subsidiary of HCC Insurance Holdings, Inc.

Representing Direct General were Mr. John Todd Hagely, Vice President/Finance and Treasurer of Direct General; Mr. L. Jackson Walker, Senior Counsel of Direct General, and Mr. Derrick W. Smith and Mr. Nicholas Thompson of Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C. as Direct General's counsel. Mr. Hagely, Mr. Walker and Ms. Butler testified at the hearing. The hearing record closed on Friday, July 15, 2005, at close of business at the Department.

### FINDINGS OF FACT

From the Form A testimony of witnesses and other evidence produced at the hearing (including exhibits filed in connection therewith, reports, correspondence, financial information, business plans, and the statements on file with the Department, representations of counsel, and other matters considered) the Commissioner finds that:

1. NIU is an Arkansas domiciled property and casualty insurer. NIU is a wholly-owned direct subsidiary of Specialty Insurance Underwriters, Inc., a Missouri corporation. Specialty Insurance Underwriters, Inc. ("Specialty Insurance Underwriters") is a wholly-owned direct subsidiary of HCC Holdings, Inc., a Delaware corporation.

2. Direct General is a Tennessee domiciled publicly traded financial services holding company.

3. The testimony presented by Mr. Hagely at the hearing, and the biographical affidavits filed as part of the Form A, indicate that each of the proposed directors and officers of NIU, as well as other individuals associated with the subsidiaries of Direct General, have prior extensive experience in the insurance industry, including experience in management of insurance companies.

4. Mr. Hagely testified that Direct General will acquire control of NIU through a Stock Purchase Agreement. The stages of the acquisition relevant to the Stock Purchase Agreement are described as follows:

(a) Direct General will acquire control of NIU by acquiring all of the issued and outstanding shares of common capital stock of NIU from its parent, Specialty Insurance Underwriters, which shares represent all of the issued and outstanding stock of NIU.

(b) The acquisition will be effected pursuant to the terms specified in the Stock Purchase Agreement between Direct General and Specialty Insurance Underwriters, whereby Direct General will pay to Specialty Insurance Underwriters \$110,000 per jurisdiction where NIU is authorized to business as listed on Schedule 2.2 to the Stock Purchase Agreement, plus an amount equal to the shareholders equity in NIU at the date of the closing, for an aggregate total of approximately \$10.3 million.

(c) The source and nature of the consideration for purchase of NIU consists of cash held by Direct General.

5. Mr. Hagely testified that based on an analysis of the statutory financial projections prepared on behalf of Direct General concerning the acquisition of NIU and filed in conjunction with the Form A, NIU, upon consummation of this transaction, will have sufficient levels of capital and surplus to support its business. Based on the testimony of Mr. Hagely and business plans and projections and other information filed by Direct General in conjunction with the Form A:

(a) Direct General does not plan on making substantial changes post-acquisition to the operations of NIU except for those identified herein or in the Form A;

(b) The proposed directors and officers of NIU will be as follows;

1. Directors:

Jacqueline C. Adair

Tammy R. Adair

Barry D. Elkins

2. Officers:

Jacqueline C. Adair President and CEO;

Tammy R. Adair Executive Vice President;

Barry D. Elkins Senior Vice President and CFO;

J. Todd Hagely Vice President/Finance and Treasurer;

Scott Johnson Vice President/Claims;

Matt McClure Secretary;

Constance Collins Assistant Secretary;

Robert F. Wilson Assistant Secretary;

L. Jackson Walker Assistant Secretary;

Jill A. Fritz Assistant Secretary.

(c) Direct General proposes for NIU to write new non-standard automobile business as described in the Form A filing;

(d) Direct General has no present plans to cause NIU to declare any extraordinary dividend; and

(e) Direct General has no current plans to change NIU's name after the acquisition or redomesticate to another state.

6. Mr. Hagely confirmed that the books and records for the subsidiaries of Direct General are currently being held at 1281 Murfreesboro, Road, 5-01, Nashville, Tennessee 37217.

For this reason, and since NIU, if acquired by Direct General, would also become a subsidiary, Direct General requests that the books and records of NIU be maintained at the Nashville, Tennessee offices after the acquisition. Nonetheless, as required by Arkansas law, the home office of NIU after acquisition would continue to be located at 425 West Capitol, Suite 1800, Little Rock, Arkansas 72201-3525.

7. Mr. Hagely testified on behalf of Direct General that, in his opinion:

(a) Direct General's acquisition of NIU will not cause NIU to be unable to satisfy the requirements to issue the lines of business it is currently authorized to write in Arkansas;

(b) Direct General's acquisition of NIU will not substantially lessen competition of insurance in Arkansas or create a monopoly in the state;

(c) The financial condition of Direct General will not jeopardize the financial stability of NIU or prejudice NIU's policyholders or the interests of remaining security holders who are unaffiliated with Direct General, if any;

(d) The terms of the acquisition are fair and reasonable to the policyholders of NIU;

(e) Direct General has no plans to liquidate NIU, sell its assets, or consolidate or merge the insurer with any person or make any other material changes to the business, corporate structure or management, that are unreasonable to NIU or its policyholders or inconsistent with the public interest; and

(f) The competence, experience, integrity of the persons who would control the operations of NIU after acquisition are such that it is consistent with the interest of NIU's policyholders and the public to allow the acquisition to go forward.

8. Mr. Walker described the status of a shareholder derivative action and a class-action matter currently pending in the Federal District Court of Tennessee; copies of relevant litigation were provided to the Department.

#### CONCLUSIONS OF LAW

Based upon the foregoing findings of fact and other matters of fact and materials before her, the Commissioner concludes as follows:

1. The Commissioner has jurisdiction over the parties and subject matter herein.
2. None of the preclusions of Ark. Code Ann. § 23-63-510 exist as to the acquisition of control of NIU by Direct General. Therefore, the acquisition should be approved.

Based on the foregoing findings of fact and conclusions of law and being duly advised, IT IS THEREFORE ORDERED that:

(a) Pursuant to Ark. Code Ann. § 23-63-510, the acquisition of control of NIU by Direct General as described in the Form A, testimony of witnesses and other evidence adduced at the hearing (including exhibits filed in connection therewith), reports, correspondence, financial information, business plans and statements on file with the Department, representations of, and other matters and materials considered, should be, and is hereby approved;

(b) Direct General shall report on a quarterly basis regarding the status of the securities litigation currently pending in the Federal District Court of Tennessee until final disposition thereof;

(c) Pursuant to Ark. Code Ann. § 23-69-134(c), the request to maintain the books and records of NIU, after the acquisition, in Nashville, Tennessee, should be and is hereby approved, and NIU's home office will continue to be located in Little Rock, Arkansas.

IT IS THEREFORE ORDERED this 28<sup>th</sup> day of July \_\_\_\_, 2005.

  
JULIE BENAFIELD BOWMAN  
INSURANCE COMMISSIONER