



DEPARTMENT OF COMMERCE AND INSURANCE

P.O. Box 690, Jefferson City, Mo. 65102-0690

IN RE: Proposed Acquisition of:)
MISSOURI MEDICARE SELECT, LLC)
by)
MFO AHP, LLC, MFO AHP SUB LLC,)
AHP ORCHARDS LLC, ORCHARD)
HOLDINGS LLC, ORCHARD)
HOLDINGS II, LLC, ORCHARD)
HOLDINGS III, LLC, MARK T.)
MITCHELL LIVING TRUST)
AGREEMENT U/A DATED JULY 31,)
1998 AS AMENDED, MITCHELL)
FAMILY IRREVOCABLE TRUST U/A)
DATED DECEMBER 28, 2012, AND)
MARK MITCHELL)

Case No. 2010300618F

APPROVAL WITH CONDITIONS

Based on competent and substantial evidence and review of the filings, I, Chlora Lindley-Myers, Director of the Missouri Department of Commerce and Insurance (“Director” of the “Department”), determine that there is no need for additional proceedings or a formal hearing on this matter and hereby issue the following findings of fact, conclusions of law, and order approving the proposed acquisition in this case with conditions:

FINDINGS OF FACT

1. On or about October 20, 2020, MFO AHP LLC (“MFO AHP”) submitted a Form A Statement (“Form A”) with the Department in connection with the proposed acquisition of control of American Health Companies, Inc. (“AHC”) by MFO AHP and its subsidiary MFO AHP SUB LLC (“MFO SUB”).
2. AHC presently controls Missouri Medicare Select, LLC (the “Domestic Insurer”). Consequently, through the proposed acquisition of AHC, MFO AHP and MFO SUB would acquire control of the Domestic Insurer.
3. The acquisition of control of the Domestic Insurer is proposed to be accomplished through a Securities Purchase Agreement (“SPA”) dated December 18, 2020. The SPA contemplates that certain preliminary transactions will occur before the purchase and sale provided for in the SPA.
4. These preliminary transactions will include AHC becoming a wholly owned subsidiary of FLP, Limited Partnership (“FLP”). FLP will in turn be owned by newly created Florida entities FAHC, Inc. (“FAHC”), FLLC, LLC (“FLLC”), and FC, Inc. (“FC”).
5. Following the preliminary transactions, FAHC, FLLC, and FC will each join and become parties to the SPA as sellers. MFO AHP and MFO SUB will acquire all of FLP’s outstanding limited and general partnership interests from FAHC, FLLC, and FC in accordance with the SPA, thereby acquiring control of AHC and, ultimately, acquiring control of the Domestic Insurer.

6. On or near the same date that MFO AHP submitted the Form A to the Department, similar Form A statements seeking to acquire other subsidiaries of AHC were submitted to insurance departments in Florida (which was later withdrawn), Georgia, Kansas, Mississippi, Oklahoma, Tennessee (the lead state for the insurance holding company system), Texas, and Utah. To improve efficiency, these states coordinated efforts to seek necessary information related to the Form As.
7. In a letter dated November 2, 2020, the Tennessee Department of Commerce and Insurance (“TDCI”) requested on its and the Department’s behalf certain information from MFO AHP. Among other items, the letter requested that MFO AHP amend the Missouri Form A to include as additional acquiring entities the following affiliates of MFO AHP: AHP Orchards, LLC, Orchard Holdings, LLC, Orchard Holdings II, LLC, Orchard Holdings III, LLC, Mr. Mark Mitchell, and each of the Mitchell Living and Irrevocable Trusts listed in Exhibit D of the Form A. Missouri requested that these affiliates be added as acquiring parties because they control, either directly or indirectly, MFO AHP and MFO SUB, and thus as a result of the proposed acquisition provided for in the SPA would acquire control of the Domestic Insurer.
8. As requested, MFO AHP filed an amended Form A Statement (“Amended Form A”) with the Department, naming as the acquiring persons MFO AHP, MFO SUB, AHP Orchards LLC, Orchard Holdings LLC, Orchard Holdings II, LLC, Orchard Holdings III, LLC, Mark T. Mitchell Living Trust Agreement U/A dated July 31,

1998 as amended, Mitchell Family Irrevocable Trust U/A dated December 28, 2012, and Mark Mitchell (collectively the “Applicants”).

9. The Applicants have no plans to declare an extraordinary dividend, liquidate the Domestic Insurer, sell any of its assets, or merge it with any person or persons, nor do they have plans to make any other material change in the Domestic Insurer’s business operations, corporate structure, or management.
10. The proposed acquisition of control of the Domestic Insurer will not substantially lessen competition in insurance in Missouri or tend to create a monopoly in Missouri.

CONCLUSIONS OF LAW

11. Section 382.040.1 RSMo¹ provides as follows:

No person other than the issuer shall commence a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, he or she would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time the offer, request, or invitation is commenced or the agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, he or she has filed with the director and has sent to the insurer a statement containing the information required by section 382.050 and the offer, request, invitation, agreement or acquisition has been approved by the director in the manner prescribed by sections 382.010 to 382.300.

¹ All civil statutory references are to the Revised Statutes of Missouri (2016).

12. Section 382.060 provides, in relevant part, that the Director “shall approve any . . . acquisition of control referred to in section 382.040 unless after a public hearing the director finds” certain adverse conditions or consequences related to the acquisition.

13. After a review of the Amended Form A, the exhibits, and the additional information submitted by the Applicants, and pursuant to section 382.060, the Director fails to find that:

- a. After the proposed acquisition of control, the Domestic Insurer would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;
- b. The effect of the acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein;
- c. The financial condition of any acquiring party is such as might jeopardize the financial stability of the Domestic Insurer, or prejudice the interest of its policyholders;
- d. Any plans or proposals which any acquiring party has to liquidate the Domestic Insurer, to sell its assets, or to consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and contrary to the public interest;
- e. The competence, experience or integrity of those persons who would control the operation of the Domestic Insurer are such that it would be contrary to

the interest of policyholders of the insurer and of the public to permit the acquisition of control; or

- f. The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

ORDER

Based on the foregoing findings and conclusions, the proposed acquisition of control of Missouri Medicare Select, LLC by MFO AHP LLC, MFO AHP SUB LLC, AHP Orchards LLC, Orchard Holdings LLC, Orchard Holdings II, LLC, Orchard Holdings III, LLC, Mark T. Mitchell Living Trust Agreement U/A dated July 31, 1998 as amended, Mitchell Family Irrevocable Trust U/A dated December 28, 2012, and Mark Mitchell, is hereby **APPROVED WITH CONDITIONS**, namely:

1. The acquisition of control of the Domestic Insurer by the Applicants will be subject to, and conditioned on, the closing of the SPA.
2. The acquisition of control of the Domestic Insurer by the Applicants will be subject to, and conditioned on, the Applicants obtaining approval of all of the Form As submitted to Georgia, Kansas, Mississippi, Oklahoma, Tennessee, Texas, and Utah from those states' respective departments.
3. Applicants will not pay any ordinary or extraordinary dividend, or make any ordinary or extraordinary distribution, of the Domestic Insurer for a period of three years following the consummation of the proposed acquisition without the prior approval of the Director.

4. Applicants will cause the Domestic Insurer to maintain a minimum risk-based capital level of at least 300% of the authorized control level, and provide a capital maintenance agreement to the Domestic Insurer to maintain such level.
5. Applicants will notify the Director within 30 days of any potential default of, or potential triggering of a covenant related to, the Amended Form A financing transactions occurring within six years of the consummation of the proposed acquisition.
6. Applicants will provide with the annual Form B the personal wealth financial statements of Mr. Mitchell certified or reviewed by an independent certified public accountant (CPA) who is not a CPA employed or contracted with the Applicants. The first of such personal wealth financial statements shall be due on May 1, 2022, and prepared as of December 31, 2021.
7. Applicants will not utilize any insurance company within the group, including the Domestic Insurer, and including the assets or future earnings of any such company, as collateral for any current or future financing transaction, for as long as Applicants control the Domestic Insurer.

SO ORDERED.

WITNESS MY HAND THIS 26th DAY OF March, 2021.



Chlora Lindley Myers

CHLORA LINDLEY-MYERS, Director
Missouri Department of Commerce and
Insurance

APPROVED FOR ENTRY AND EXECUTION

BY APPLICANTS:

The person signing below for Applicants represents by signing that he or she has authority to bind the Applicants:



Signature

Mark Mitchell

Printed Name

Firm or Office

BY THE DIVISION OF INSURANCE COMPANY REGULATION:



John Rehagen, Director