

DEC 11 1998

DEPT. OF INSURANCE
BY Kathy

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

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In the Matter of the Acquisition of Control of:)	Docket No. 98A-190-INS
)	
AMERICAN EQUITY INSURANCE)	ORDER
COMPANY (NAIC No. 43117), and)	
WASHINGTON INTERNATIONAL)	
INSURANCE COMPANY (NAIC No. 32778))	
)	
Insurers,)	
)	
by)	
)	
ASSOCIATES FIRST CAPITAL)	
CORPORATION,)	
)	
Petitioner.)	
)	

On December 7, 1998, the Office of Administrative Hearings, through Administrative Law Judge Robert I. Worth, issued a Recommended Decision of Administrative Law Judge ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:

1. The recommended Findings of Fact and Conclusions of Law are adopted.
2. The acquisition of control of the Insurers by the Petitioner shall be approved subject to the following conditions:
 3. The Petitioner shall advise the Director in writing of the effective date of the change of control.

1 4. If the completed fingerprint cards furnished to the Department reveal that any of
2 Petitioner's officers or directors have been charged with or convicted of a felony or misdemeanor other
3 than minor traffic violations, such individual or individuals shall be removed as an officer and/or
4 director of the Petitioner within 30 days after notice to Petitioner by the Department and shall be
5 replaced with an officer or director acceptable to the Director. If Petitioner fails to take the prescribed
6 action within 30 days, this failure will constitute an immediate danger to the public and the Director
7 immediately may suspend or revoke the certificates of authority of the Insurers without further
8 proceedings.

9 5. Except as provided below, all information, documents, and copies relating to the
10 Insurers and Petitioner obtained by or disclosed to the Director, or any other person in the course of a
11 filing, an examination or an investigation made pursuant to A.R.S. §§ 20-481.03, 20-481.10 and 20-
12 481.20, shall not be given confidential treatment, shall be subject to subpoena and shall be made public
13 documents, subject to inspection, examination or copying by any person.

14 6. The fingerprint cards and biographical affidavits that Petitioner submitted to the
15 Department and admitted respectively as Tabs "N" and "O" to Exhibit "1" at the hearing, as well as the
16 contents of a black binder submitted to the Department on November 3, 1998 consisting of sensitive
17 financial data and projections, arranged under seven index tabs, shall be treated as confidential pursuant
18 to A.R.S. § 20-481.21 and shall not be subject to subpoena or otherwise be subject to inspection,
19 examination or copying by any person as public documents.

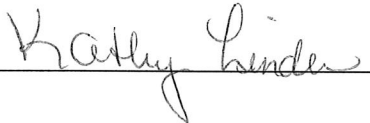
20 7. Until further notice from the Department, the Insurers shall file quarterly financial
21 statements following the effective date of the acquisition.

1 A copy of the foregoing mailed
this 11 day of December, 1998

2 Sara M. Begley, Deputy Director
3 Mary Butterfield, Assistant Director
Catherine O'Neil, Legal Affairs Officer
4 Gary Torticill, Assistant Director
Deloris Williamson, Assistant Director
5 Scott Greenberg, Business Administrator
Kurt Regner, Examiner
6 Department of Insurance
2910 N. 44th Street, Suite 210
7 Phoenix, AZ 85018

8 Office of Administrative Hearings
1700 W. Washington, Suite 602
9 Phoenix, AZ 85007

10 Kirk A. Borchardt
Lord, Bissell & Brook
11 300 South Grand Avenue, 8th Floor
Los Angeles, CA 90071

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1
2 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

3
4 **In The Matter Of the Acquisition of**
5 **Control of**
6 **AMERICAN EQUITY INSURANCE**
7 **COMPANY (NAIC NO. 43117)**

8 **and**
9 **WASHINGTON INTERNATIONAL**
10 **INSURANCE COMPANY**
11 **(NAIC NO. 32778)**

12 **Insurers,**
13 **By**
14 **ASSOCIATES FIRST CAPITAL**
15 **CORPORATION,**
16 **Petitioner.**

Docket No. 98A-190-INS

RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE

17 **HEARING:** December 3, 1998.

18 **APPEARANCES:** The Petitioner, Associates First Capital Corporation, (herein
19 called the "Petitioner) was represented by its attorney, Kirk
20 A. Borchardt, Esq.

21 Kurt A. Regner, Senior Examiner and Analyst for the
22 Arizona Department of Insurance (herein called the
23 "Department") was present as a witness.

24 **ADMINISTRATIVE LAW JUDGE:** Robert. I. Worth

25
26 Evidence and testimony were presented, and based upon the entire case record,
27 the following Findings of Fact, Conclusions of Law and Recommended Order have
28 been prepared and are hereby submitted by the undersigned Administrative Law Judge
29 for review, consideration, approval and adoption by the Director of the Department
30 (herein called the "Director").

FINDINGS OF FACT

1. The Insurers, American Equity Insurance Company and Washington
International Insurance Company, (herein called the "Insurers") are domestic insurers in
the State of Arizona as referred to in A.R.S. §20-481.02.

Office of Administrative Hearings
1700 West Washington, Suite 602
Phoenix, Arizona 85007
(602) 542-9826

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2. The Insurers and the Petitioner expressly waived all applicable advance notice requirements imposed by statute or rule with respect to the convening of the instant hearing.

3. Both Insurers were shown to be wholly owned direct subsidiaries of Jupiter Holdings, Inc. which, in turn, was shown to be a wholly owned direct subsidiary of The Northland Company (herein called "Northland").

4. Pursuant to an Agreement and Plan of Merger between Petitioner and Northland, Petitioner proposes to acquire control of Insurers. In furtherance of this proposed action, Petitioner has filed a statement as referred to in A.R.S. §§20-481.02 and 20-481.03, in the form required by Rule R20-6-1402, A.A.C., seeking the Department's approval of its application for the acquisition of control of both Insurers and for approval of Petitioner as the controlling person of the Insurers.

5. The evidence of record, as presented at the hearing, sufficiently established, with respect to matters of compliance with the provisions of A.R.S. §20-481(A), that Petitioner's acquisition of control of the Insurers:

- a. Is not contrary to law;
- b. Is not inequitable to the shareholders of either of the domestic insurers involved;
- c. Would not substantially reduce the security of and service to be rendered to the policyholders of either of the Insurers in this State or elsewhere;
- d. Would not substantially lessen competition in insurance in this state or tend to create a monopoly; and
- e. Is not likely to be hazardous or prejudicial to the insurance-buying public.

6. The evidence at the hearing further demonstrated that:

- a. After the change of control, both of the domestic Insurers would be able to satisfy the requirements for the reissuance of certificates of

1 authority to write the line or lines of insurance for which they are
2 presently licensed;

- 3 b. The financial stability of the Insurers and the interests of their
4 respective policyholders would not be jeopardized or prejudiced by the
5 financial condition of Petitioner, as the acquiring party;
- 6 c. The plans or proposals, if any, that Petitioner, as the acquiring party
7 has to liquidate the Insurers, to sell their assets, to consolidate or
8 merge them with any person, or to make any other material changes in
9 their respective businesses or corporate structures or management,
10 are fair and reasonable to policyholders of the Insurers and are in the
11 public interest; and
- 12 d. The competence, experience and integrity of those persons who would
13 control the operations of the Insurers are such that it would be in the
14 public interest of policyholders of the Insurers and of the public to
15 permit the merger or other acquisition of control.

16 7. The Petitioner has furnished completed fingerprint cards and biographical
17 affidavits to the Department to enable the Department to determine if any of Petitioner's
18 officers or directors have been charged with or convicted of a felony or misdemeanor
19 other than minor traffic violations.

20 8. The Petitioner requested that the above-described fingerprint cards and
21 biographical affidavits submitted to the Department and introduced into evidence at the
22 hearing as Tabs "N" and "O" to Exhibit "1," remain confidential. The Department had no
23 objection to Petitioner's request for confidentiality of these records.

24 9. Petitioner had additionally requested that confidentiality treatment also be
25 accorded to various documents containing sensitive financial data and projections,
26 arranged under seven separate index tabs, all of which were submitted on November 3,
27 1998 to the Department in a black binder for review and consideration. No portion of
28 these documents was introduced or offered as an exhibit at the hearing. The
29 Department had no objection to Petitioner's request for confidentiality of these
30 additional documents.

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2 1. The Petitioner shall advise the Director in writing of the effective date of the
3 change of control.

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5 2. If the completed fingerprint cards furnished to the Department reveal that any
6 of Petitioner's officers or directors have been charged with or convicted of a felony or
7 misdemeanor other than minor traffic violations, such individual or individuals shall be
8 removed as an officer and/or director of the Petitioner within 30 days after notice to
9 Petitioner by the Department and shall be replaced with an officer or director
10 acceptable to the Director. If Petitioner fails to take the prescribed action within 30
11 days, this failure will constitute an immediate danger to the public and the Director
12 immediately may suspend or revoke the certificates of authority of the Insurers without
13 further proceedings.

14
15 3. Except as provided below, all information, documents, and copies relating to
16 the Insurers and Petitioner obtained by or disclosed to the Director, or any other person
17 in the course of a filing, an examination or an investigation made pursuant to A.R.S.
18 §§20-481.03,20-481.10 and 20-481.20, shall not be given confidential treatment, shall
19 be subject to subpoena and shall be made public documents, subject to inspection,
20 examination or copying by any person.

21
22 4. The fingerprint cards and biographical affidavits that Petitioner submitted to
23 the Department and admitted respectively as Tabs "N" and "O" to Exhibit "1" at the
24 hearing, as well as the contents of a black binder submitted to the Department on
25 November 3, 1998 consisting of sensitive financial data and projections, arranged
26 under seven index tabs, shall be treated as confidential pursuant to A.R.S. §20-481.21
27 and shall not be subject to subpoena or otherwise be subject to inspection, examination
28 or copying by any person as public documents.

29
30 5. Until further notice from the Department, the Insurers shall file quarterly
financial statements following the effective date of the acquisition.

6. Upon consummation of this acquisition, the Insurers shall file registration
statements in the form prescribed by A.R.S. §20-481.10 and within the time period

1 prescribed by A.R.S. §20-481.09 or §20-481.13. If the registration statements would
2 duplicate the information previously submitted by the Petitioner in the statement filed
3 with the Department pursuant to A.R.S. §20-481.03 and there have been no material
4 changes since the filing of that statement, then the Insurers shall submit statements to
5 that effect incorporating by reference the statements previously filed with the
6 Department in lieu of the registration statements.

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8 7. The failure to adhere to one or more of the above terms and conditions shall
9 result in the suspension or the revocation of the certificates of authority of the Insurers
10 without further proceedings.

11 Dated: December 7, 1998.

12 OFFICE OF ADMINISTRATIVE HEARINGS

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15 _____
16 Robert. I. Worth
17 Administrative Law Judge

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21
22 Original transmitted on 12/8/98

23
24 by: Chris Crawford Thomas, to:

25
26 Charles R. Cohen, Director
27 Department of Insurance
28 2910 North 44th Street (Suite 210)
29 Phoenix, AZ 85018

30
ATTN: Curvey Burton