

1-1-1933

1119 PAR 255

**SECTION 9.03. Authority.** All action required to be taken by or on the part of National and NDCC to authorize the execution, delivery and performance of the Merger Agreement and the consummation of the transactions contemplated hereby shall have been duly and validly taken by the Boards of Directors of National and NDCC, respectively, and by the shareholder of NDCC.

**SECTION 9.04. Opinion of National Counsel.** Emery shall have been furnished an opinion or opinions of Messrs. Breed, Abbott & Morgan, counsel to National and NDCC, dated the day of the Effective Time of the Merger, in form and substance satisfactory to Emery, to the effect that:

(a) National is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted as described in the Joint Proxy Statement. The shares of National Preference Stock have been duly authorized and, when issued to former holders of Emery Common Stock in accordance with Article Three of the Merger Agreement, will be validly issued, fully paid and non-assessable.

(b) NDCC is a corporation duly organized, validly existing and in good standing under the laws of the State of Ohio. The 1,000 outstanding common shares of NDCC have been duly authorized and validly issued and are fully paid and nonassessable. Such shares are owned of record and beneficially by National.

(c) National and NDCC have full corporate power to carry out the transactions provided for in the Merger Agreement; all corporate and other proceedings required to be taken by or on the part of National and NDCC to authorize them to execute and deliver the Merger Agreement and to consummate the transactions contemplated hereby have been duly taken; the Merger Agreement has been duly authorized, executed and delivered by National and NDCC and constitutes a valid and binding obligation of National and NDCC.

(d) Neither the consummation of the transactions contemplated hereby nor compliance by National or NDCC with any of the provisions hereof will conflict with or result in a breach of any provisions of or constitute a default (or an event which, with notice or lapse of time or both would constitute a default) under, or result in the creation of any lien, security interest, charge or encumbrance upon any of the properties or assets of National or NDCC under, any of the terms, conditions or provisions of the articles of incorporation thereof or the by-laws of National or code of regulations of NDCC or under any instrument for money borrowed or guaranty known to such counsel to which National or NDCC is a party, or by which they or any of their properties or assets may be bound, except for such conflict, breach, default or creation as to which requisite waivers or consents shall have been obtained by National by the Effective Time of the Merger or shall have been waived by Emery.

(e) Since the date of the opinion rendered on the Mailing Date in accordance with Section 6.15(a) of the Merger Agreement, nothing has come to the attention of such counsel which would require an amendment to such opinion, if such opinion had been dated and delivered at the Effective Time of the Merger.

As to any matter contained in such opinion which involves other than Federal or New York law, Messrs. Breed, Abbott & Morgan may rely upon the opinions of local counsel of established reputation satisfactory to Emery. Such opinion may expressly rely as to matters of fact upon certificates furnished by appropriate officers of National or NDCC.

**SECTION 9.05. Accountants' Letter.** Emery shall have received a letter from Price Waterhouse & Co., dated the day of the Effective Time of the Merger and addressed to Emery and National, in form and substance satisfactory to Emery which covers the period to a specified date not more than five business days prior to the day of the Effective Time of the Merger and which confirms the information and conclusions included in the accountants' letter previously furnished to Emery pursuant to Section 6.15(a) on the basis of procedures set forth therein or describing in what respects such information and conclusions cannot be confirmed.