

DEC 29 1997

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY ED

1 In the Matter of the Acquisition of Control of:)
 2)
 3 TENNCO LIFE INSURANCE COMPANY)
 4 (NAIC No. 92550),)
 5)
 6 Insurer,)
 7 by)
 8 REPUBLIC INDUSTRIES, INC,)
 9 Petitioner.)
 10)

Docket No. 97A-232-INS

ORDER

11 On December 24, 1997, the Office of Administrative Hearings, through Administrative
 12 Law Judge Lewis D. Kowal submitted Recommended Decision of Administrative Law Judge
 13 ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The
 14 Director of the Arizona Department of Insurance has reviewed the Recommended Decision and enters
 15 the following order:

- 16 1. The recommended findings of fact and conclusions of law are adopted.
- 17 2. The acquisition of control of the Insurer by the Petitioner is approved subject to

18 the express conditions as follows:

- 19 a. If the completed fingerprint cards furnished to the Department reveal that any of
- 20 Petitioner's officers or directors have been charged with or convicted of a felony or misdemeanor other
- 21 than minor traffic violations, the individual(s) will be removed as an officer and/or director of the
- 22 Petitioner within 30 days after notice to Petitioner by the Department and will be replaced with an officer

1 or director acceptable to the Director. If Petitioner fails to take the prescribed action within 30 days, this
2 failure will constitute an immediate danger to the public and the Director immediately may suspend or
3 revoke Insurer's certificate of authority without further proceedings.

4 3. Except as provided below, all information, documents, and copies relating to the
5 Insurer and Petitioner obtained by or disclosed to the Director, or any other person in the course of a
6 filing, an examination or investigation made pursuant to A.R.S. §§ 20-481.03 and 20-481.20, will not be
7 given confidential treatment, will be subject to subpoena and will be made public documents, subject to
8 inspection, examination or copying by any person.

9 4. The Petitioner will advise the Director in writing of the effective date of the change
10 of control.

11 5. Until further notice from the Department, the Insurer will file quarterly financial
12 statements following the effective date of the acquisition.

13 6. The fingerprint cards and biographical affidavits that Petitioner submitted to the
14 Department and those fingerprint cards and biographical affidavits to be submitted to the Department
15 remain confidential pursuant to A.R.S. § 20-481.21.

16 7. Upon consummation of this acquisition, the Insurer will file its registration
17 statement in the form prescribed by A.R.S. § 20-481.10 and within the time period prescribed by A.R.S.
18 § 20-481.09 or § 20-481.13. If the registration statement would duplicate the information previously
19 submitted by the Petitioner in the statement filed with the Department pursuant to A.R.S. § 20-481.03
20 and there have been no material changes since the filing of that statement, then the Insurer will submit a
21 statement to that effect incorporating by reference the statement previously filed with the Department in
22 lieu of the registration statement.

23

1 8. The failure to adhere to one or more of the above terms and conditions will result
2 without further proceedings in the suspension or the revocation of the Insurer's certificate of authority.

3 9. Petitioner will file its Article of Merger of RI/TLI Merger Corp., into Insurer
4 provided that the Articles of Merger is modified to reflect the correct address of the statutory agent and
5 reflects the minimum value of common stock of the Insurer as required under the insurance laws of the
6 State of Arizona.

7 NOTIFICATION OF RIGHTS

8 The aggrieved party may request a rehearing with respect to this Order by filing a written
9 petition with the Office of Administrative Hearings within 30 days of the date of this Order, setting forth
10 the basis for such relief pursuant to A.A.C. R20-6-114(B).

11 The final decision of the Director may be appealed to the Superior Court of Maricopa
12 County for judicial review pursuant to A.R.S. § 20-166. A party filing an appeal must notify the Office of
13 Administrative Hearings of the appeal within ten days after filing the complaint commencing the appeal,
14 pursuant to A.R.S. § 41-1092.10.

15 DATED this 26 day of December, 1997

16
17 
18 John A. Greene
 Director of Insurance

1 A copy of the foregoing mailed
this 29th day of December, 1997

2 Charles R. Cohen, Deputy Director
3 Gregory Y. Harris, Executive Assistant Director
4 Mary Butterfield, Assistant Director
5 Catherine O'Neil, Assistant Director
6 Gary Torticill, Assistant Director
7 Deloris Williamson, Assistant Director
8 Scott Greenberg, Business Administrator
9 Department of Insurance
10 2910 N. 44th Street, Suite 210
11 Phoenix, AZ 85018

12 Office of Administrative Hearings
13 1700 W. Washington, Suite 602
14 Phoenix, AZ 85007

15 Philip T. Paris
16 2929 N. 44th Street, Suite 120
17 Phoenix, AZ 85018

18 *Esther Davis*
19 _____

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Acquisition
of Control of

**TENNCO LIFE INSURANCE COMPANY,
(NAIC No. 92550),**

Insurer,

by

REPUBLIC INDUSTRIES, INC.,

Petitioner.

No. 97A-232-INS

**RECOMMENDED DECISION
OF ADMINISTRATIVE
LAW JUDGE**

HEARING: December 18, 1997

APPEARANCES: Philip T. Paris, Esq. for Petitioner; Kurt Regner for the
Arizona Department of Insurance

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

On December 18, 1997, a hearing took place to consider the application for the acquisition of control of Tennco Life Insurance Company (the "Insurer"), filed by Republic Industries, Inc. (the "Petitioner"), with the Arizona Department of Insurance (the "Department"), and for approval of Petitioner as the controlling person of the Insurer pursuant to the provisions of A.R.S. §§20-481 through 20-481.23, and A.A.C. R20-6-1402.

Based upon the entire record in this matter the following Findings of Fact, Conclusions of Law and Recommended Order are made:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Insurer is a domestic insurer as referred to in A.R.S. §20-481.02.
2. The Petitioner has filed a statement as referred to in A.R.S. §§20-481.02 and 20-481.03, in the form required by A.A.C. R20-6-1402.
3. The Insurer and its security holders waived the ten (10) day advance notice to be given as required by A.R.S. §20-481.07.
4. No evidence has been produced at the hearing that would indicate or form the basis for a finding that the Petitioner's acquisition of control of the Insurer:

- 1 a. Is contrary to law;
- 2 b. Is inequitable to the shareholders of any domestic insurer involved;
- 3 c. Would substantially reduce the security of and service to be rendered to
the policyholders of the Insurer in this state or elsewhere;
- 4 d. After the change of control the Insurer would not be able to satisfy the
5 requirements for the reissuance of a certificate of authority to write the line or lines of
6 insurance for which it is presently licensed;
- 7 e. The effect of the acquisition of control would be to substantially lessen
8 competition in insurance in this state or tend to create a monopoly;
- 9 f. The financial condition of any acquiring party might jeopardize the
10 financial stability of the Insurer or prejudice the interest of its policyholders;
- 11 g. The plans or proposals that the acquiring party has to liquidate the
12 Insurer, sell its assets or consolidate or merge it with any person, or to make any other
13 material change in its business or corporate structure or management, are unfair and
14 unreasonable to policyholders of the Insurer and are not in the public interest;
- 15 h. The competence, experience and integrity of those persons who would
16 control the operation of the Insurer are such that it would not be in the public interest of
17 policyholders of the Insurer and of the public to permit the merger or other acquisition of
18 control; or
- 19 i. The acquisition is likely to be hazardous or prejudicial to the insurance-
20 buying public.

21 5. The Petitioner has furnished some completed fingerprint cards to the
22 Department and will submit additional fingerprint cards to enable the Department to
23 determine if any of Petitioner's officers or directors have been charged with or convicted
24 of a felony or misdemeanor other than minor traffic violations. The Petitioner has made
25 representations that none of its officers or directors have been charged with or
26 convicted of a felony or misdemeanor other than minor traffic violations.

27 6. The Petitioner requested that the fingerprint cards and biographical
28 affidavits Petitioner submitted to the Department and those fingerprint cards and
29 biographical affidavits to be submitted to the Department remain confidential. The
30 Department had no objection to Petitioner's request for confidentiality of those records.

7. Except as provided above, the interests of policyholders, shareholders or
the public will be served by the publication of all information, documents and copies,
relating to the Insurer and Petitioner, and obtained by or disclosed to the Director, or

1 any other person in the course of a filing, an examination, or investigation made
2 pursuant to A.R.S. §§20-481.03, 20-481.10 and 20-481.20.

3 8. The Articles of Merger submitted by Petitioner are deficient in that the
4 address of the statutory agent is incorrect and the minimum value of the common stock
5 of the Insurer after the merger of RI/TLI Merger Corp. into Insurer is not in accordance
6 with the insurance laws of the State of Arizona.

7 9. Based upon its review of the Petitioner's Form A filing, the Department
8 represented its belief that the Petitioner's Form A filing is complete subject to
9 Petitioner's representation that the Articles of Merger will be modified to be in
10 compliance with Arizona law and recommended approval of this acquisition.

11 **RECOMMENDED ORDER**

12 The undersigned Administrative Law Judge recommends that:

13 1. The acquisition of control of the Insurer by the Petitioner be approved
14 subject to the express conditions as follows:

15 a. If the completed fingerprint cards furnished to the Department reveal that
16 any of Petitioner's officers or directors have been charged with or convicted of a felony
17 or misdemeanor other than minor traffic violations, the individual(s) shall be removed as
18 an officer and/or director of the Petitioner within 30 days after notice to Petitioner by the
19 Department and shall be replaced with an officer or director acceptable to the Director.
20 If Petitioner fails to take the prescribed action within 30 days, this failure will constitute
21 an immediate danger to the public and the Director immediately may suspend or revoke
22 Insurer's certificate of authority without further proceedings.

23 2. Except as provided below, all information, documents, and copies relating
24 to the Insurer and Petitioner obtained by or disclosed to the Director, or any other
25 person in the course of a filing, an examination or investigation made pursuant to
26 A.R.S. §§20-481.03 and 20-481.20, not be given confidential treatment, be subject to
27 subpoena and shall be made public documents, subject to inspection, examination or
28 copying by any person.

29 3. The Petitioner advise the Director in writing of the effective date of the
30 change of control.

4. Until further notice from the Department, the Insurer file quarterly financial
statements following the effective date of the acquisition.


5. The fingerprint cards and biographical affidavits that Petitioner submitted
to the Department and those fingerprint cards and biographical affidavits to be
submitted to the Department remain confidential pursuant to A.R.S. §20-481.21.

1 6. Upon consummation of this acquisition, the Insurer file its registration
2 statement in the form prescribed by A.R.S. §20-481.10 and within the time period
3 prescribed by A.R.S. §20-481.09 or §20-481.13. If the registration statement would
4 duplicate the information previously submitted by the Petitioner in the statement filed
5 with the Department pursuant to A.R.S. §20-481.03 and there have been no material
6 changes since the filing of that statement, then the Insurer submit a statement to that
7 effect incorporating by reference the statement previously filed with the Department in
8 lieu of the registration statement.

9 7. The failure to adhere to one or more of the above terms and conditions
10 shall result without further proceedings in the suspension or the revocation of the
11 Insurer's certificate of authority.

12 8. Petitioner may file its Article of Merger of RI/TLI Merger Corp. into Insurer
13 provided that the Articles of Merger is modified to reflect the correct address of the
14 statutory agent and reflects the minimum value of common stock of the Insurer as
15 required under the insurance laws of the State of Arizona.

16 Done this day, December 24, 1997.

17 
18 _____
19 LEWIS D. KOWAL
20 Administrative Law Judge

21 Original transmitted by mail this
22 24 day of December, 1997, to:

23 Mr. John A. Greene, Director
24 Department of Insurance
25 ATTN: Curvey Burton
26 2910 North 44th Street, #210
27 Phoenix, AZ 85018-7256

28 By 
29 _____
30