

DEC 22 1998

DEPT. OF INSURANCE
BY RB

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

In the Matter of the Withdrawal of:)	Docket No. 98A-192-INS
)	
MEMORIAL LIFE INSURANCE COMPANY)	
(NAIC No. 94773),)	ORDER
)	
)	
Petitioner.)	
)	

On December 16, 1998, the Office of Administrative Hearings, through Administrative Law Judge Lewis D. Kowal, 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 Petitioner may file its Articles of Amendment to its Articles of Incorporation ("Articles of Amendment") with the Arizona Corporation Commission.
3. The Petitioner is entitled to the release of its statutory deposit in the sum of \$100,000.00. Petitioner's statutory deposit shall be released to the Petitioner after the Department has received the following: (a) payment of \$356.59 to the Insurance Examiners' Revolving Fund ("IERF"); (b) a copy of Petitioner's Articles of Amendment certified as having been filed with the Arizona Corporation Commission; and (c) a fully executed Form E126 (Notice of Trust Deposit Release). The

1 statutory deposit cannot be released until the Department receives a fully executed copy of the official
2 State Treasurer Release Receipt Form E101.

3 4. The sum of \$100.00 previously credited to the IERF shall be refunded to the
4 Petitioner, pursuant to A.R.S. § 20-159.

5 5. The Petitioner shall file its 1998 Annual Statement with the Department, together
6 with all applicable fees, unless Petitioner files its Articles of Amendment with the Arizona Corporation
7 Commission on or before December 31, 1998.

8 NOTIFICATION OF RIGHTS

9 Pursuant to A.R.S. § 41-1092.09, the aggrieved party may request a rehearing with
10 respect to this Order by filing a written motion with the Director of the Department of Insurance within
11 30 days of the date of this Order, setting forth the basis for relief under A.A.C. R20-6-114(B).

12 The final decision of the Director may be appealed to the Superior Court of Maricopa
13 County for judicial review pursuant to A.R.S. §§ 12-904 and 20-166. A party filing an appeal must
14 notify the Office of Administrative Hearings of the appeal within ten days after filing the complaint
15 commencing the appeal, pursuant to A.R.S. § 12-904(B).

16 DATED this 22nd of December, 1998

17
18 

19
20 Charles R. Cohen
Director of Insurance

1 A copy of the foregoing mailed
this 22 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 Philip T. Paris
2929 N. 44th Street, Suite 120
11 Phoenix, AZ 85018

12
13 Betty Bryant
14
15
16
17
18
19
20
21
22
23

1 5. At least ten business days before the hearing of this matter, Petitioner gave
2 special notice to creditors and policyholders of the Petitioner, setting forth the date,
3 place, nature and purpose of the hearing, as evidenced by an affidavit of publication.
4 Petitioner listed the United States Internal Revenue Service ("I.R.S.") as a creditor in its
5 Plan of Extinguishment of Liabilities. However, upon this tribunals' granting of
6 Petitioner's request to reopen the record of this matter, the Petitioner presented
7 documentary evidence into the record (Exhibit G) that prior to the hearing of this matter,
8 the I.R.S. was paid and is no longer a creditor of the Petitioner.

9 6. The Petitioner has a \$100,00.00 statutory deposit with the Department and
10 a \$100.00 deposit with the Insurance Examiners' Revolving Fund ("IERF").

11 7. Petitioner currently owes \$356.59to the IERF.

12 8. Petitioner waived the notice requirements set forth in A.R.S §41-1092.05(D)

13 **CONCLUSIONS OF LAW**

14 The Petitioner has complied with the provisions of A.R.S. §20-588 and with
15 A.A.C. R20-6-303, relating to the release of its \$100,000.00 statutory deposit.

16 **RECOMMENDED ORDER**

17 1. The Petitioner may file its Articles of Amendment to its Articles of
18 Incorporation ("Articles of Amendment") with the Arizona Corporation Commission.

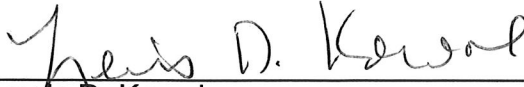
19 2. The Petitioner is entitled to the release of its statutory deposit in the sum of
20 \$100,000.00 and Petitioner's statutory deposit shall be released to the Petitioner after
21 the Department has received the following: (a) payment of \$356.59to the IERF; (b) a
22 copy of Petitioner's Articles of Amendment certified as having been filed with the
23 Arizona Corporation Commission; and (c) a fully executed Form E126 (Notice of Trust
24 Deposit Release). The statutory deposit cannot be released until the Department
25 receives a fully executed copy of the official State Treasurer Release Receipt Form
26 E101.

27 3. The sum of \$100.00 previously credited to the IERF shall be refunded to
28 the Petitioner, pursuant to A.R.S. §20-159.

29 4. The Petitioner shall file its 1998 Annual Statement with the Department,
30 together with all applicable fees, unless Petitioner files its Articles of Amendment with

1 the Arizona Corporation Commission on or before December 31, 1998.

2 Done this day, December 16, 1998.

3
4 

5 Lewis D. Kowal
6 Administrative Law Judge

7 Original transmitted by mail this

8 17 day of December, 1998, to:

9
10 Mr. Charles R. Cohen, Director
11 Department of Insurance
12 2910 North 44th Street, Ste. 210
13 Phoenix, AZ 85018

14 Attention: Curvey Burton

15
16
17 
18 By Chris Crawford Thomason