

JAN 31 1996

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

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In the Matter of:)	Docket No. 96A-007
)	
MOUNTAIN NATIONAL LIFE INSURANCE)	ORDER
COMPANY, NAIC No. 85782)	
)	
Respondent)	
_____)	

Upon information obtained by the Assistant Director of Corporate and Financial Affairs Division of the Arizona Department of Insurance, the Director of Insurance makes the following finding of fact and conclusions of law and issues the following order:

1. Mountain National Life Insurance Company (Mountain National), NAIC No. 85782, is domiciled in Arizona and presently holds a certificate of authority issued by the Arizona Department of Insurance to transact life and disability reinsurance business.

2. Pursuant to A.R.S. §20-158(B), the Department served a copy of a Report of Examination of Mountain National (the "Report") as of December 31, 1992, upon Mountain National on July 21, 1994, through the office of its Statutory Agent, Thomas E. Haney at 1421 East Thomas Road, Phoenix, Arizona 85014.

3. Pursuant to A.R.S. §§ 20-156 through 20-160, the Report and the transmittal letter that accompanied the Report, directed Mountain National to address the following issues on or before August 4, 1994:

a. The management fees paid to Gregory C. Stevinson, the Mountain National's President and 50% shareholder, did not appear to be fair and reasonable as required by A.R.S.

1 §20-481.12(A), and a formal agreement for these fees did not
2 exist as required by A.R.S. § 20-481.12(A). A formal agreement
3 should have been entered into and submitted to the Department for
4 approval as required by A.R.S. §20-481.12(B);

5 b. The distribution of an extraordinary dividend to
6 shareholders that exceeded the amount allowed under A.R.S.
7 §20-481.19; and the distribution of the extraordinary dividend
8 without first submitting the notice of the distribution for the
9 Department's approval as required under A.R.S. §20-481.19;

10 c. Mountain National failed to report a federal
11 income tax recoverable as a non-admitted asset pursuant to A.R.S.
12 §20-223; and

13 d. Mountain National's failure to properly account
14 for its reinsurance agreement as required by A.A.C. R4-14-305
15 [now A.A.C. R20-6-305].

16 4. Mountain National failed to respond to the Report
17 or to the transmittal letter.

18 5. The Report became a filed document as of September
19 12, 1994.

20 6. Pursuant to A.R.S. §§20-156, 20-157 and 20-158, on
21 September 13, 1994, the Department advised Mountain National that
22 the Report had been filed. In addition, the Department again
23 requested from Mountain National, responses to the Report issues
24 within 60 days, detailed as follows:

25 a. A formal management agreement with Gregory C.
26 Stevinson and documentation pursuant to A.A.C. R4-14-1407 [now
27 A.A.C. R20-6-1407] requesting Department approval pursuant to
28 A.R.S. §20-481.12(B). Additionally, Mountain National was

1 requested to justify the compensation for services rendered as
2 required pursuant to A.R.S. §20-481.12(A);

3 b. Documentation pursuant to A.A.C. R4-14-1408 [now
4 A.A.C. R20-6-1408] requesting retroactive approval for
5 distribution of an extraordinary dividend made to shareholders in
6 1992;

7 c. Written assurance from an officer of Mountain
8 National that Federal Income Tax Recoverable will be properly
9 non-admitted and the proper balances will be established pursuant
10 to A.A.C. R4-14-305 (now A.A.C. R20-6-305) in future financial
11 filings with the Department.

12 7. By letters dated December 14, 1994, and March 17,
13 1995, Mountain National, through its consultant Alex J. Meloy of
14 J. Huell Briscoe & Associates, Inc., requested retroactive
15 approval of extraordinary distributions to shareholders in the
16 amount of \$1,284,225.

17 8. By letters dated January 19, 1995, and April 19,
18 1995, the Department informed Mr. Meloy of the Department's
19 denial of the \$1,284,225 extraordinary distribution for the
20 following reasons:

21 a. Mountain National's failure to adequately respond
22 to the Department's correspondence dated September 13, 1994,
23 requesting the documents identified above in ¶ 6(a) and 6(b);

24 b. Mountain National's failure to adequately respond
25 to the Department's correspondence dated December 2, 1994,
26 concerning discrepancies noted during the Desk Audit of the Form
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1 B filed pursuant to A.R.S. §20-481.09 for the year ending
2 December 31, 1993.

3 9. By letter dated May 18, 1995, the Department again
4 notified Mountain National of Mountain National's failure to
5 respond to Report of Examination issues in conjunction with the
6 Desk Audit review of Mountain National's 1994 Annual Statement
7 and Form B.

8 10. By letter dated October 27, 1995, Mountain
9 National provided a written management agreement with Gregory C.
10 Gregory C. Stevinson, bearing the date September 20, 1991, signed by
11 Gregory C. Stevinson for Mountain National, and in his individual
12 capacity. In addition, this letter contained written assurance
13 that Mountain National will properly non-admit Federal Income
14 Taxes Recoverable in future financial statement filings with the
15 Department.

16 11. By letter dated November 2, 1995, the Department
17 noted Mountain National's representation to the Department during
18 the 1992 Examination that no formal management agreement existed
19 during 1991 or 1992. The Department again requested that
20 Mountain National file a properly executed management agreement
21 with an accompanying Form "D" filing with the Department as
22 required pursuant to A.R.S. §20-481.12(B)(4). In addition, the
23 Department requested documentation of ratification of the
24 management agreement by Mountain National's Board of Directors
25 pursuant to A.R.S. §20-726(D) and A.R.S. § 10-041, to be filed
26 with the Department no later than November 16, 1995.

27 12. Mountain National has not responded to the
28 Department's November 2, 1995, letter and has failed to provide

1 data to the Department in connection with an examination of the
2 affairs, transactions, records and assets of Mountain National.

3 13. Mountain National has paid an extraordinary
4 dividend without first providing notice to the Director.

5 Based upon these facts, IT IS ORDERED pursuant to
6 A.R.S. §20-169 and A.A.C. R20-6-1704(C)(1) that Mountain National
7 provide the following to the Department within 14 days of the
8 date of this Order:

9 a. A properly executed management agreement and
10 accompanying Form D filing, with supporting documentation of
11 ratification of said agreement by the Board of Directors pursuant
12 to A.R.S. §20-481.12(B)(4), A.R.S. §20-726(D) and A.R.S. § 10-041.

13 b. A request for retroactive approval of the
14 extraordinary dividend in the amount of \$1,284,225 by the
15 Department pursuant to A.R.S. §20-481.19, upon filing documents
16 requested in item one above.

17 The failure of Mountain National to provide the above
18 information within the time allotted, may be cause for
19 revocation, suspension or non-renewal of the Certificate of
20 Authority issued to Mountain National after notice and a hearing
21 pursuant to A.R.S. §§20-220(A)(2) and (3), 20-481.28 and A.A.C.
22 20-6-308(A)(15), or the imposition of civil penalties, or both.

23 Any person aggrieved by this Order may make written
24 demand for a hearing upon this Order to the Director in
25 accordance with A.R.S. §§20-161 and 20-162.

1 Dated this 31st day of January, 1996.

2 

3 CHRIS HERSTAM
4 Director of Insurance

5 COPY of the forgoing mailed/delivered
6 this 31st day of January, 1996, to:

7 Mr. John Hayan, President
8 Mountain National Life Insurance Company
9 C/O Automobile Services, Inc.
10 1546 Cole Blvd. Bldg. 5, Suite 130
11 Golden, Colorado 80401

12 Thomas E. Haney, Esq.
13 Statutory Agent
14 Mountain National Life Insurance Company
15 1421 East Thomas Road
16 Phoenix, Arizona 85014

17 Chris Herstam, Director
18 Charles Cohen, Deputy Director
19 Gregory Harris, Executive Assistant Director
20 Erin Klug, Executive Assistant
21 Catherine O'Neil, Assistant Director
22 Gary Torticill, Assistant Director
23 Deloris Williamson, Assistant Director
24 Nancy Howse, Deputy Chief Examiner
25 Kelly Stephens, Deputy Assistant Director
26 Jeffrey Solem, Chief Analyst
27 Edward Caldwell, Examiner/Analyst
28 2910 North 44th Street, Suite 210
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