

1 minimum required, and are adverse to Respondent's financial condition within the meaning of
2 A.A.C. R20-6-308(A)(7).

3 4. The N.A.I.C.'s I.R.I.S. ratios disclose that Respondent has severely underestimated loss
4 reserves reported in Annual Statements from previous years. The actuarial opinion for
5 Respondent's 1996 Annual Statement indicates that current reserves for losses and loss adjustment
6 expenses are reported at the lower range of reasonableness. This information contained in the
7 actuarial opinion, when considered together with Respondent's pattern of under-estimating its
8 reserves, constitutes an adverse finding or information with respect to Respondent's financial
9 condition, within the meaning of A.A.C. R20-6-308(A)(1).

10 5. Respondent's 1996 Annual Statement reported negative cash flow from operations in the
11 amount of \$5,519,437 for the year ending December 31, 1996, indicating that Respondent is
12 experiencing cash flow or liquidity problems, within the meaning of A.A.C. R20-6-308(A)(18).

13 6. Respondent's 1996 Annual Statement reports as assets "miscellaneous receivables" of
14 \$9,019,315. This amount exceeds Respondent's reported surplus. \$8.4 million of miscellaneous
15 receivables represents a receivable for commutation of a reinsurance treaty. Respondent's assets
16 are not of sufficient fair market value, liquidity, and diversity to assure its ability to meet its
17 outstanding obligations as they mature, within the meaning of A.A.C. R20-6-308(A)(5).

18 7. Respondent is in an unsound condition or in such condition as to render its further
19 transaction of insurance in this state hazardous within the meaning of A.R.S. §20-220(A)(3) and
20 A.A.C. R20-6-308.

21 8. It appears to and is the opinion of the Director that Respondent's financial condition is
22 such as to render the continuance of its business hazardous to the public or to holders of its
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1 policies or certificates of insurance, within the meaning of A.R.S. §20-169.

2 9. The public health, safety and welfare imperatively require emergency action, within the
3 meaning of A.R.S. § 41-1064(C).

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1 **ORDER**

2 IT IS HEREBY ORDERED that Respondent's certificate of authority to transact insurance
3 in Arizona is suspended effective this date. Further, pursuant to the Director's authority described
4 in A.A.C. R20-6-308(C)(2), Respondent is prohibited from accepting renewal business on Arizona
5 risks during the period of this suspension as well as transacting insurance business in this state
6 requiring a certificate of authority pursuant to A.R.S. §20-206.

7 IT IS FURTHER ORDERED that to abate the determinations made herein, pursuant to
8 A.R.S. §§ 20-169, 20-220(A)(3) and 20-235(C) and A.A.C. R20-6-308, Respondent shall:

9 1. Submit to the Director an RBC report based on the 1996 Annual Statement, and
10 any RBC plan that is filed with the insurance director in any other state, in accordance with A.R.S.
11 §§20-488.02 and 20-488.09;


12 2. Provide to the Director an independent actuarial report which shows that
13 Respondent's reserves are adequate;

14 3. Bring the gross and net premiums to surplus ratio to no more than 900% and 300%
15 respectively for the calendar year before the reinstatement;

16 4. Demonstrate that assets are of sufficient fair market value, liquidity and diversity to
17 assure Respondent's ability to meet its outstanding obligations as they mature; and

18 5. Demonstrate that Respondent's reinsurance provides adequate protection for its
19 remaining surplus and complies with A.R.S. §20-260.

20 DATED this 10 day of April, 1997.

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23 JOHN A. GREENE
Director of Insurance

1 **NOTICE**

2 The determination set forth in this order is an “appealable agency action” pursuant to
3 A.R.S. § 41-1092. Consequently, you have the right to obtain a hearing on this determination by
4 filing a Notice of Appeal within thirty (30) days after your receipt of this order. If your Notice of
5 Appeal is received after that thirty (30) day period, it will not be accepted without a demonstration
6 of good cause for the late filing. The Notice of Appeal must identify the party appealing, the
7 party’s address, the determination being appealed, and must contain a concise statement of the
8 reasons for the appeal. Your hearing will be held within sixty (60) days after your Notice of
9 Appeal is filed, unless the hearing is advanced or delayed by agreement or a showing of good
10 cause by any party. The Department of Insurance will serve a Notice of Hearing at least thirty (30)
11 days before the hearing, which will inform you of the date, time and location of the hearing as well
12 as the issues in controversy.

13 If you file a Notice of Appeal, you may also request an Informal Settlement Conference by
14 filing a written request no later than twenty (20) days before the scheduled hearing. The
15 conference will be held within fifteen (15) days after receipt of your request. If an Informal
16 Settlement Conference is requested, a person with the authority to act on behalf of the Department
17 of Insurance will be present. Please note that you waive any right to object to the participation of
18 the Department’s representative in the final administrative decision of the matter if it is not settled.

19 The Notice of Appeal and request for an Informal Settlement Conference described above
20 may be addressed to:

21 Deputy Director
22 Arizona Department of Insurance
23 2910 North 44th Street, Suite 210
Phoenix, Arizona 85018
Attn.: Hearing Administration

1 COPY of the foregoing mailed/delivered
this 10th day of April, 1997, to:

2 Lionel John Goetz, President
3 U.S. Capital Insurance Company
1055 Portion Road
4 Farmingville, NY 11738-9087

5 Charles R. Cohen, Deputy Director
Gary Torticill, Assistant Director / Chief Examiner
6 Catherine O'Neil, Assistant Director
Erin Klug, Market Conduct Examinations Chief Examiner
7 Deloris Williamson, Assistant Director
Sara Begley, Deputy Receiver
8 Scott Greenberg, Business Administrator
2910 North 44th Street, Suite 210
9 Phoenix, Arizona 85018

10 Gregory V. Serio
Acting Superintendent of Insurance
11 Department of Insurance
State of New York
12 160 West Broadway
New York, NY 10013

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16 Curvey Walters Burton

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