

FEB 23 2005

DEPT OF INSURANCE  
BY 

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

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In the Matter of )  
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**LEHMAN INSURANCE COMPANY** )  
**(NAIC No. 40037)** )  
)  
Respondent. )  
\_\_\_\_\_ )

Docket No. 05A-034-INS  
**CONSENT ORDER**

The State of Arizona, Department of Insurance (the "Department"), has received evidence that Lehman Insurance Company ("Respondent") has violated provisions of Title 20, Arizona Revised Statutes ("A.R.S."). Respondent wishes to resolve this matter without the commencement of formal proceedings. Respondent neither admits nor denies the following Findings of Fact and consents to the entry of the following Conclusions of Law and Order.

**FINDINGS OF FACT**

1. Lehman Insurance Company ("Respondent"), an Arizona domiciled insurance company, presently holds a certificate of authority issued by the Arizona Department of Insurance to transact surety insurance.
2. Respondent failed to respond to notices issued by the Department regarding its incomplete 2003 Annual Statement filing and its failure to file a 2003 Certificate of Disclosure Form E-178, a 2003 annual Holding Company Registration Statement and its 2004 Quarterly Financial Statements with both the National Association Of Insurance Commissioners ("NAIC") and the Department as required by A.R.S. §§ 20-223, 20-233, 20-481.09, 20-235(C) and 20-234, respectively. Most recently, Respondent failed to respond to an Order to Comply dated September 9, 2004, and received by Respondent on September 14, 2004.

1 3. Respondent filed its 2003 Annual Statement for the period ended December 31, 2003,  
2 which was due on March 31, 2004, on May 14, 2004 with the Department and on May 19,  
3 2004 with the NAIC.

4 4. The 2003 Annual Statement late filed by Respondent with the Department has the  
5 following deficiencies: (1) missing original signatures and notarization, (2) missing original  
6 signature of the Treasurer on the Affidavit of Exemption from Filing a Statement of Actuarial  
7 Opinion, (3) missing the Risk-Based Capital Report, (4) missing the Producer Controlled  
8 Property and Casualty Report Form E-350 and (5) missing a complete Duplicate Annual  
9 Statement, all as required by Arizona law. Respondent was notified of the deficiencies and, to  
10 date, has not rectified those deficiencies.

11 5. Respondent repeatedly failed to timely pay Annual Fees due March 31st. Respondent  
12 paid its 2001 Annual Fees 4 days late on April 4, 2002, its 2002 Annual Fees 28 days late on  
13 April 28, 2003 and its 2003 Annual Fees 33 days late on May 3, 2004. Respondent was  
14 assessed and paid penalty fees in the amounts of \$30.00, \$375.00 and \$825.00 for its late  
15 2001, 2002 and 2003 Annual Fee payments, respectively. The repeated late payments of  
16 annual fees by Respondent constitute intentional violations of A.R.S. § 20-220(A)(1).

17 6. Respondent failed to pay a Consolidated Assessment issued on October 27, 2004 for the  
18 Financial Surveillance Fund, Fraud Unit Assessment and correction to the Fiscal Year 2005  
19 Fraud Unit Assessment, which totals \$975.00.

## 20 **CONCLUSIONS OF LAW**

21 1. The Director has jurisdiction over this matter.  
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1 j. 3<sup>rd</sup> Quarter 2004 Financial Statement with original signatures and notarization on  
2 Jurat Page.

3 k. Evidence of filing 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Quarter 2004 Financial Statements with the  
4 NAIC.

5 l. Payment of \$975.00 for the Consolidated Insurance Department Assessment.

6 2. Respondent shall pay a total penalty of no less than \$37,235.00 (Thirty seven  
7 thousand two hundred thirty five dollars and no cents) to the Director payable no later than 30  
8 days from the date of entry of this Order for remission to the State Treasurer for deposit in the  
9 State General Fund. The penalty is comprised of the following components:

10 A. \$5,625.00 as of December 15, 2004 and \$25 for each additional day thereafter  
11 until the 2003 Annual Statement has been made complete, as additional penalty  
12 fees pursuant to A.R.S. § 20-223(D) and \$5,000.00 as a civil penalty permitted  
13 by A.R.S. § 20-220(B)(2) for an intentional violation of A.R.S § 20-220(A)(1) and  
14 (2).

15 B. \$6,475.00 as of December 15, 2004 and \$25 for each additional day thereafter  
16 until the 2003 Certificate of Disclosure is filed, as penalty fees pursuant to  
17 A.R.S. § 20-233(B) and \$5,000.00 as a civil penalty permitted by A.R.S. § 20-  
18 220(B)(2) for an intentional violation of A.R.S § 20-220(A)(1) and (2).

19 C. \$6,475.00 as of December 15, 2004 and \$25 for each additional day thereafter  
20 until the 2003 Annual Holding Company System Registration Statement Form B  
21 and C is filed, as penalty fees pursuant to A.R.S. § 20-481.26(A) and \$5,000.00  
22 as a civil penalty permitted by A.R.S. § 20-220(B)(2) for an intentional violation  
23 of A.R.S § 20-220(A)(1) and (2).

1 D. \$2,140.00 as of December 15, 2004 and \$10 for each additional day thereafter  
2 until the 1<sup>st</sup> Quarter 2004 Financial Statement is filed, as late fees pursuant to  
3 A.R.S. § 20-235(D).

4 E. \$1,220.00 as of December 15, 2004 and \$10 for each additional day thereafter  
5 until the 2<sup>nd</sup> Quarter 2004 Financial Statement is filed, as late fees pursuant to  
6 A.R.S. § 20-235(D).

7 F. \$300.00 as of December 15, 2004 and \$10 for each additional day thereafter  
8 until the 3<sup>rd</sup> Quarter 2004 Financial Statement is filed, as late fees pursuant to  
9 A.R.S. § 20-235(D).

10 DATED this 16<sup>th</sup> day of February 2005.

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13 \_\_\_\_\_  
14 CHRISTINA URIAS  
15 Director of Insurance

16 **CONSENT TO ORDER**

17 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law  
18 and Order.

19 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona.  
20 Respondent neither admits nor denies the foregoing Findings of Fact and consents to the  
21 entry of the foregoing Conclusions of Law and Order.

22 3. Respondent is aware of its right to notice and a hearing at which it may be  
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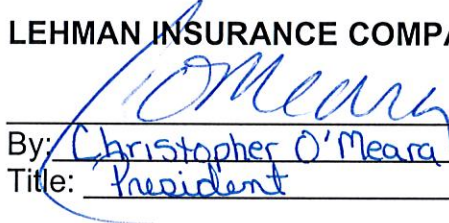
1 represented by counsel, present evidence and cross-examine witnesses. Respondent  
2 irrevocably waives its right to such notice and hearing and to any court appeals relating to this  
3 Consent Order.

4 4. Respondent states that no promise of any kind or nature whatsoever, except as  
5 expressly contained in this Consent Order was made to it to induce it to enter into this Consent  
6 Order and that it has entered into this Consent Order voluntarily.

7 5. Respondent acknowledges that the acceptance of this Consent Order by the  
8 Director is solely to settle this matter against it and does not preclude any other agency, officer  
9 or subdivision of this State from instituting civil or criminal proceedings as may be appropriate  
10 now or in the future.

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12  
13 DATE: January 28, 2005

**LEHMAN INSURANCE COMPANY**

14 By:   
15 Title: President

1 COPY of the foregoing mailed/delivered  
this 23rd day of Feb., 2005 to:

2  
3 Christopher O'Meara, President  
Lehman Insurance Company  
4 745 Seventh Avenue  
New York, NY 10019-6801  
5

6 Brian Nicholson, Vice President  
Lehman Insurance Company  
7 605 Third Avenue  
New York, NY 10158-3698  
8

9 Prentice-Hall Corporation System  
Agent for Service of Process  
10 2338 West Royal Palm Road, Suite J  
Phoenix, AZ 85021  
11

12 Gerrie Marks, Deputy Director  
Steve Ferguson, Assistant Director  
13 Kurt Regner, Chief Financial Analyst  
Leslie Hess, Deputy Receiver  
14 Arizona Department of Insurance  
2910 North 44<sup>th</sup> Street, Second Floor  
Phoenix, AZ 85018  
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Curvey Walters Burton  
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