STATE OF ARIZONA FILED

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STATE OF ARIZONA

DEPT	OF INSURANCE
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DEPARTMENT OF INSURANCE

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In the Matter of:

(NAIC NO. 40037)

LEHMAN INSURANCE COMPANY

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THE WITHDRAWAL OF:

ORDER

Petitioner.

On February 6, 2008, the Office of Administrative Hearings, through Administrative Law Judge ("ALJ") Lewis Kowal, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on February 11, 2008, 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. Petitioner may file its Articles of Dissolution with the Arizona Corporation Commission ("ACC").
- 3. Petitioner is entitled to the release of its statutory deposit in the sum of \$500,000.00. Petitioner's statutory deposit shall be released to Petitioner after the Department has received all of the following:
 - (a) an ACC certified copy of Petitioner's filed Articles of Dissolution;
 - (b) an official State Treasurer Receipt Form E101; and
 - (c) Petitioner's 2007 Annual Statement and Annual Tax and Fees Report with the applicable filing fee.

- 4. The sum of \$100.00 previously credited to the IERF shall be refunded to Petitioner pursuant to A.R.S. § 20-159.
- 5. Petitioner shall pay its 2008 Certificate of Authority renewal fee to the Department and file its 2007 Annual Form B if its Articles of Dissolution are not filed with the ACC on or before March 31, 2008.
- 6. Petitioner shall file its 2008 Annual Statement and Annual Tax and Fees Report with the Department, together with all applicable fees, unless Petitioner files its Articles of Dissolution with the ACC on or before December 31, 2008.

The Director of the Department has no personal liability for the good faith release of any deposit as provided for in A.R.S. § 20-588(B).

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Petitioner may request a rehearing with respect to this order by filling a written motion with the Director of the Department of Insurance within 30 days of the date of this Order, setting forth the basis for relief under A.A.C. R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary to request a rehearing before filing an appeal to Superior Court.

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

DATED this 15th day of February, 2008.

CHRISTINA URIAS, Director Arizona Department of Insurance

1	COPY of the foregoing mailed this 20th day of February , 2008 to:
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3	Office of Administrative Hearings 1400 West Washington, Suite 101 Phoenix, Arizona 85007
4	Mary Butterfield, Assistant Director
5	Catherine O'Neil, Comsumer Legal Affairs Officer Steve Ferguson, Assistant Director
6	Leslie R Hess, Financial Affairs Legal Analyst Kurt A. Regner, Chief Financial Analyst
7	Mary E. Kosinski, Executive Assistant for Regulatory Affairs Arizona Department of Insurance
8	2910 North 44th Street, Suite 210 Phoenix, Arizona 85018
9	Tasha N. Cycholl
10	Low & Childers, PC 2999 N. 44 th Street, Suite 250
11	Phoenix, Arizona 85018 Attorney for Petitioner
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13	Leseen Buiton
14	Curvey Burton
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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF ARIZONA
RECEIVED
FEB 1 1 2008

DIRECTOR'S OFFICE
INSURANCE DEPT.

In the Matter of the Withdrawal of

LEHMAN INSURANCE COMPANY

(NAIC NO. 40037),

Petitioner.

No. 08A-005-INS

ADMINISTRATIVE LAW JUDGE DECISION

HEARING: February 4, 2008 at 3:00 p.m.

<u>APPEARANCES</u>: Petitioner Lehman Insurance Company appeared through Tasha N. Cycholl, Esq., Low & Childers, PC; the Arizona Department of Insurance appeared through Kurt Regner.

ADMINISTRATIVE LAW JUDGE: Diane Mihalsky

On February 4, 2008, a hearing took place to consider the application of Lehman Insurance Company ("Petitioner") to withdraw from the insurance business, for the refund of its Insurance Examiners' Revolving Fund deposit, and for the release of its statutory deposit pursuant to A.R.S. § 20-588 and A.A.C. R20-6-303.

Based upon the entire record in this matter, the Administrative Law Judge makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

- 1. Petitioner has submitted an Affidavit of Lost Certificate of Authority to the Arizona Department of Insurance ("Department").
- 2. Petitioner has filed with the Department certified copies of Resolutions of the Petitioner's Board of Directors and of Petitioner's shareholder authorizing Petitioner to withdraw from the insurance business by dissolution.
- 3. Petitioner has no insurance obligations, whether by policies written direct or by reinsurance ceded to it and has no non-insurance obligations.
- 4. Petitioner has filed its verified financial statement as of December 20, 2007 with the Department, within 60 days of the filing of its request to resume the Application to Withdraw, which was filed with the Department on December 12, 2007.

Office of Administrative Hearings 1400 West Washington, Suite 101 Phoenix, Arizona 85007 (602) 542-9826

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- 5. At least 10 business days before the hearing of this matter, Petitioner gave special notice to its creditors and policyholders of the Petitioner, setting forth the date, place, nature and purpose of the hearing, as evidenced by an affidavit of publication.
- 6. Petitioner has filed with the Department fully executed Requests for Release of Certificate of Deposit Forms E126CD.
- 7. Petitioner has a \$500,000.00 statutory deposit with the Department and a \$100.00 deposit with the Insurance Examiners' Revolving Fund ("IERF").
 - 8. Petitioner has waived the notice requirements regarding this public hearing.

CONCLUSIONS OF LAW

- 1. Petitioner bears the burden of proof and must establish that it is entitled to withdraw from its operations as an Arizona-domiciled insurance company, to a refund of its IERF deposit, and release of its statutory deposit by a preponderance of the evidence.
- 2. Petitioner has complied with the provisions of A.R.S. § 20-588 and with A.A.C. R20-6-303, relating to the release of its \$500,000.00 statutory deposit and refund of its \$100.00 IERF deposit.

ORDER

- 1. Petitioner may file its Articles of Dissolution with the Arizona Corporation Commission.
- 2. Petitioner is entitled to the release of its statutory deposit in the sum of \$500,000.00. The statutory deposit shall be released to Petitioner after the Department has received the following:
- (a) an Arizona Corporation Commission certified copy of Petitioner's filed Articles of Dissolution;
- (b) the 2007 Annual Statement and Annual Tax and Fees Report, together with all applicable fees;
- (c) an Official State Treasurer Receipt Form E101.

 The Director has no personal liability for the release of such deposit so made by her in good faith as provided in A.R.S. § 20-588(B).
- 3. The sum of \$100.00 previously credited to the IERF shall be refunded to Petitioner, pursuant to A.R.S. § 20-159

- 4. Petitioner shall pay its 2008 Certificate of Authority renewal fee and file its 2007 Annual Form B unless Petitioner files its Articles of Dissolution with the Arizona Corporation Commission on or before March 31, 2008.
- 5. Petitioner shall file its 2008 Annual Statement and Annual Tax and Fees Report with the Department, together with all applicable fees, unless Petitioner files its Articles of Dissolution with the Arizona Corporation Commission on or before December 31, 2008.

Done this day, February 6, 2008.

Diane Mihalsky

Administrative Law Judge

Original transmitted by mail this day of February, 2008, to:

Christina Urias, Director Department of Insurance 2910 North 44th Street, Ste. 210 Phoenix, AZ 85018

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