

APR 15 2008

DEPT OF INSURANCE
BY CB

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of)
)
 FOUNDATION RESERVE INSURANCE)
 COMPANY, INC.)
)
 (NAIC No. 95617))
)
 Petitioner)
)

Docket No. 08 A-074-INS

**ORDER RELEASING
EXCESS DEPOSIT**

Upon the Petitioner's written application for the release of deposited funds, the Director shall issue an Order releasing and returning the deposited funds to the Petitioner to the extent that the deposit is in excess of the amount required. A.R.S § 20-588(A)(2).

FINDINGS OF FACT

1. Foundation Reserve Insurance Company, Inc. ("Petitioner"), a New Mexico domiciled insurer, received its certificate of authority to transact property, casualty without workers' compensation and vehicle insurance in Arizona on June 30, 1997.
2. On April 16, 1997, Petitioner executed a Security Deposit, Assignment and Trust Agreement for Sole Benefit of Arizona Policyholders and Claimants in the amount of \$310,000 (the "security deposit").
3. On June 8, 2000, Petitioner executed a Letter of Credit Agreement for Sole Benefit of Arizona Policyholders and Claimants ("Letter of Credit Agreement") pursuant to which Petitioner placed an additional security deposit in the amount of \$2,000,000 in the form of a clean, irrevocable and unconditional letter of credit with the Arizona State Treasurer. The Letter of Credit Agreement provided that the Petitioner was to maintain a letter of credit or funds deposited with the Department in an amount not less than 100% of its direct and

1 assumed Arizona risks, including losses, loss adjustment expenses, and unearned premiums,
2 calculated as of the end of the preceding year.

3 4. On October 2, 2002, Petitioner's Arizona certificate of authority was suspended
4 due to a finding of hazardous financial condition and Petitioner ceased writing new insurance
5 business.

6 5. Petitioner's deposit as of March 2008 is approximately \$820,000, of which
7 \$500,000 is the current amount of the letter of credit.

8 6. On March 10, 2008, Petitioner filed an application for the release of the
9 \$500,000 letter of credit from its security deposit pursuant to A.R.S § 20-588(A).

10 7. Petitioner provided satisfactory evidence to the Department that, as of December
11 31, 2007, the \$500,000 letter of credit constitutes excess deposit pursuant to the Letter of
12 Credit Agreement and A.R.S. § 20-588(A)(2).

13 **CONCLUSIONS OF LAW**

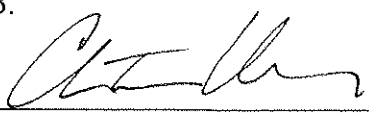
14 1. The Director has no personal liability for the release of such deposit so made by
15 her in good faith as provided in A.R.S. § 20-588(B).

16 2. The Petitioner is entitled to the release of the \$500,000 letter of credit from its
17 security deposit pursuant to A.R.S. § 20-588(A)(2).

18 **ORDER**

19 THEREFORE, IT IS ORDERED that the \$500,000 letter of credit shall be released to
20 Petitioner.

21 DATED this 15th day of April 2008.

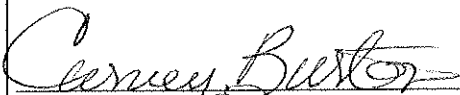
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23 _____
CHRISTINA URIAS, Director of Insurance

1 COPY of the foregoing mailed/delivered
2 this 15th day of April, 2008 to

3 Deborah Hartz, Vice President
4 Foundation Reserve Insurance Company, Inc.
5 3900 Singer Boulevard, Northeast
6 Albuquerque, NM 87109

7 Steve Ferguson, Assistant Director
8 Kurt Regner, Chief Financial Analyst
9 Leslie Hess, Legal Analyst, Financial Affairs
10 Herbert Swafford, Legal Analyst, Financial Affairs
11 Arizona Department of Insurance
12 2910 North 44th Street, Suite 210
13 Phoenix, AZ 85018

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10 Curvey Walters Burton