

AUG 12 2008

DEPT OF INSURANCE  
BY CB

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

In the Matter of )  
 )  
TRANSURANCE RISK RETENTION )  
GROUP, INCORPORATED )  
(NAIC No. 11815) )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket No. 08A-131 HNS

ORDER SUMMARILY SUSPENDING  
CERTIFICATE OF AUTHORITY AND  
NOTIFICATION OF RIGHTS

The State of Arizona, Department of Insurance (the "Department") received evidence that Transurance Risk Retention Group, Incorporated ("Respondent") violated provisions of Title 20, Arizona Revised Statutes ("A.R.S."). In light of the serious nature of these allegations, the Director of Insurance for the State of Arizona ("Director") finds that the public health, safety and welfare imperatively require emergency action, within the meaning of A.R.S. §41-1092.11(B).

**FINDINGS OF FACT**

1. Respondent is a captive insurer and risk retention group domiciled in Arizona and presently holds a certificate of authority issued by the Department to transact marine and transportation insurance, and casualty insurance without workers' compensation and without employer liability.

2. The Respondent provided various insurance policies to its affiliates to cover their trucking businesses.

3. Priority Transportation, LLC currently owes Respondent approximately \$1.4 million in past due premium. In January 2009, Priority Transportation, LLC will owe

1 Respondent a retrospective premium payment estimated to be in excess of \$1.5 million for the  
2 policy year ended December 31, 2007.

3 4. On July 14, 2008, Respondent issued a Notice of Cancellation for Non-Payment  
4 of Premium to Priority Transportation, LLC canceling policies TRANSAU-100-08, TRANSGL-  
5 100-08, and TRANSMTC-100-08 effective August 15, 2008.

6 5. Article 2 of the Respondent's Bylaws requires the business of the Respondent to  
7 be managed by a Board of Directors of no less than 3 directors with at least one Arizona  
8 resident director.

9 6. A.R.S. § 20-1098.04(G) requires at least one of Respondent's directors to be an  
10 Arizona resident.

11 7. Respondent's entire Board of Directors, including the Arizona resident director  
12 resigned on or about August 6, 2008.

13 8. The Board of Directors held a Special Meeting on August 5, 2008 ("Special  
14 Meeting") and a representative on behalf of Priority America, parent company of Priority  
15 Transportation, LLC, attended the Special Meeting. The minutes of the Special Meeting reflect  
16 that the Priority America representative told the Board that Priority America was not  
17 in a position to pay down the current premium receivable, and that whatever Priority America  
18 owes other than a proposed payment to extend the policy likely would not be forthcoming.

19 9. At the Special Meeting, the Board rejected a proposal by Priority America to  
20 extend the Priority Transportation, LLC insurance policies beyond the Notice of Cancellation's  
21 effective date of August 15, 2008. Subsequent to the Special Meeting, Priority America  
22 represented to Respondent that it would pay \$500,000 by August 15, 2008 for an extension  
23

1 to August 31, 2008 of the Priority Transportation, LLC policies due to terminate on August 15,  
2 2008.

3 10. Respondent's certificate of authority requires Respondent to provide immediate  
4 notification to the Department should capital and surplus fall below \$1.8 million.

5 11. Non-admission of the \$1.4 million in past due premium and the \$1.5 million in  
6 retrospective premium reduces Respondent's capital and surplus to negative (\$300,000) as of  
7 June 30, 2008.

8 12. The public health, safety and welfare imperatively require emergency action.

### 9 **CONCLUSIONS OF LAW**

10 1. The Director has jurisdiction over this matter.

11 2. Respondent's inability to collect the premiums owed results in Respondent being  
12 in hazardous financial condition and renders its operation hazardous or its condition unsound  
13 with respect to the public and policyholders within the meanings of A.R.S. §§ 20-1098.09(6)  
14 and 20-2401(3), and A.A.C. R20-6-308(A)(9), (12) and (13) and in its capital and surplus being  
15 impaired within the meaning of A.R.S. § 20-1098.09(1).

16 3. Respondent's continued operations violates A.R.S. §§ 20-1098.04(G), 20-  
17 1098.09(1), (6) and (7), and 20-2403(H)(2).

18 4. Grounds exist for the Director to suspend or revoke Respondent's certificate of  
19 authority pursuant to A.R.S. §§ 20-1098.09(1), (6) and (7) and 20-2403(M).

20 5. Grounds exist to order a summary suspension within the meaning of A.R.S.  
21 § 41-1092.11(B).


1 **ORDER**

2 **IT IS ORDERED:**

- 3 1. Suspending the Arizona certificate of authority held by Respondent and  
4 prohibiting the issuance of new and renewal insurance business, and  
5 prohibiting the extension of any insurance business, effective August 31,  
6 2008;
- 7 2. The effective date of cancellation of Respondent's insurance coverage  
8 under any insurance policies issued to Priority Transportation, LLC shall  
9 remain August 15, 2008 unless Respondent receives payment of  
10 \$500,000 by no later than August 15, 2008.
- 11 3. Respondent shall immediately cancel all other existing policies for the  
12 minimum period necessary to provide timely notice of cancellation to the  
13 policyholder as required by the insured's policy.
- 14 4. During the suspension, Respondent shall comply with all applicable  
15 provisions of Title 20, including but not limited to, the following:
- 16 a. Within five (5) days from the date of this Order, Respondent's captive  
17 manager, Risk Services, LLC shall provide the Department with evidence  
18 of its control and possession of all of the books and records, including all  
19 bank and investment accounts and other assets of Respondent.
- 20 b. Within thirty (30) days from the date of this Order, Respondent shall  
21 provide the Department with an Amended Business Plan detailing its  
22 plans for the run-off of the insurance claims and obligations.  
23

1 c. Effective immediately, on the 10<sup>th</sup> day of each month, Respondent shall  
2 provide the Department with monthly financial reporting, claims reporting,  
3 and reports on the status of the collection of Respondent's assets.  
4

5 DATED this 12<sup>th</sup> day of August 2008.

6 

7 CHRISTINA URIAS  
8 Director of Insurance

9 **NOTIFICATION OF RIGHTS**

10 **You have the right to request a hearing on this determination by filing a notice of**  
11 **appeal after your receipt of this notice.** The notice of appeal must identify the party  
12 appealing, the party's address, the matter being appealed and must contain a detailed  
13 statement of the reason for the appeal. Your hearing will be treated as a "contested case" and  
14 promptly instituted and determined as prescribed by A.R.S. §§41-1001(4), 41-1092.11(B) and  
15 41-1092.05(E) to the extent the Office of Administrative Hearings calendar permits. In any  
16 event, your hearing will be held within sixty (60) days of your notice of appeal is filed, unless  
17 the hearing is advanced or delayed by agreement or a showing of good cause by any party.  
18 The Department of Insurance will promptly serve a "Notice of Hearing" in accordance with  
19 A.R.S. §41-1092.05(E) that will inform you of the date, time and location of the hearing as well  
20 as the issues.

21 If you file an appeal, you may also request an "informal settlement conference"  
22 pursuant to A.R.S. §41-1092.06 by filing a written request **no more than twenty (20) days**  
23 **before the scheduled hearing.** The conference will be held within fifteen (15) days after our

1 receipt of your request. If an informal settlement conference is requested, a person with the  
2 authority to act on behalf of the Department of Insurance will be present. Please note that you  
3 waive any right to object to the participation of the Department's representative in the final  
4 administrative decision of the matter if it is not settled.

5 Your notice of appeal and/or request for an informal settlement conference may be  
6 addressed to the attention of:

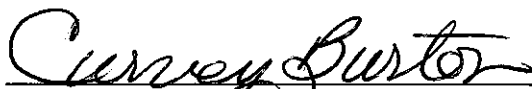
7 Hearing Administration  
8 Arizona Department of Insurance  
9 Notice of Appeal  
2910 North 44<sup>th</sup> Street, 2<sup>nd</sup> Floor  
Phoenix, Arizona 85018-7256

10 COPY of the foregoing mailed/delivered  
11 this 12<sup>th</sup> day of August, 2008 to:

12 Michael T. Rogers  
13 President  
14 Risk Services, LLC  
15 Manager for Transurance Risk Retention Group Incorporated  
16 1800 Second Street, Suite 909  
17 Sarasota, FL 34236

18 J. Michael Low, Esq.  
19 Low & Childers  
20 2999 North 44<sup>th</sup> Street  
21 Suite 250  
22 Phoenix, AZ 85018

23 Gerrie Marks, Deputy Director  
Steve Ferguson, Assistant Director, Financial Affairs  
Stephanie Lefkowski, Chief Analyst, Captive Insurance  
Leslie Hess, Legal Analyst, Financial Affairs  
Arizona Department of Insurance  
2910 North 44<sup>th</sup> Street, Second Floor  
Phoenix, AZ 85018

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25 Curvey Walters Burton